2023

SESSION LAWS

OF THE

STATE OF WASHINGTON

2023 REGULAR SESSION
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Code Reviser

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WASHINGTON SESSION LAWS
GENERAL INFORMATION

1. EDITIONS AVAILABLE.

   (a) *General Information.* The session laws are printed in a permanent softbound edition containing the accumulation of all laws adopted in the legislative session. The edition contains a subject index and tables indicating Revised Code of Washington sections affected.

   (b) *Where and how obtained - price.* The permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The edition costs $25.00 per set plus applicable state and local sales taxes and $7.00 shipping and handling. All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER.

   The session laws are presented in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

   (a) In amendatory sections

   (i) underlined matter is new matter.

   (ii) deleted matter is ((~~lined out and bracketed between double parentheses~~)).

   (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES.

   (a) Vetoed matter is ***printed in bold italics.***

   (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS. Words and clauses inserted in the session laws under the authority of RCW 44.20.060 are enclosed in [brackets].

5. EFFECTIVE DATE OF LAWS.

   (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2023 regular session is July 23, 2023.

   (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, upon approval by the Governor.

   (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

   A cumulative index and tables of all 2023 laws may be found at the back of the final volume.

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CHAPTER 230

[Engrossed Second Substitute House Bill 1216]

CLEAN ENERGY PROJECT SITING

AN ACT Relating to clean energy siting; amending RCW 44.39.010 and 44.39.012; adding a new section to chapter 80.50 RCW; adding new sections to chapter 43.21C RCW; adding a new section to chapter 36.70B RCW; adding a new section to chapter 36.01 RCW; adding new chapters to Title 43 RCW; creating new sections; prescribing penalties; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** STATEMENT OF LEGISLATIVE INTENT. (1) The legislature finds that efficient and effective siting and permitting of new clean energy projects throughout Washington is necessary to: Fight climate change and achieve the state's greenhouse gas emission limits; improve air quality; grow family-wage clean energy jobs and innovative clean energy businesses that provide economic benefits across the state; and make available secure domestic sources of the clean energy products needed to transition off fossil fuels.

(2) The legislature intends to: Enable more efficient and effective siting and permitting of clean energy projects with policies and investments that protect the environment, overburdened communities, and tribal rights, interests, and resources, including cultural resources; bring benefits to the communities that host clean energy projects; and facilitate the rapid transition to clean energy that is required to avoid the worst impacts of climate change on Washington's people and places. There is no single solution for improved siting and permitting processes. Rather, a variety of efforts and investments will help bring together state, local, tribal, and federal governments, communities, workers, clean energy project developers, and others to succeed in this essential task. The legislature intends to make biennial appropriations to support tribal review of clean energy project proposals, permit applications, and environmental reviews, as well as tribal participation in up-front planning for clean energy projects, such as nonproject environmental impact statements for clean energy projects as described in this act.

(3) Efficient and effective siting and permitting will benefit from early and meaningful community and tribal engagement, and from up-front planning including identification of areas of higher and lower levels of impact, and nonproject environmental review that identifies measures to avoid, minimize, and mitigate project impacts.

(4) Incorporating the principles and strategies identified in subsections (1), (2), and (3) of this section, the legislature intends to invest in, facilitate, and require better coordinated, faster environmental review and permitting decisions by state and local governments.

(5) Therefore, it is the intent of the legislature to support efficient, effective siting and permitting of clean energy projects through a variety of interventions, including:

(a) Establishing an interagency clean energy siting coordinating council to improve siting and permitting of clean energy projects;

(b) Creating a designation for clean energy projects of statewide significance;

(c) Creating a fully coordinated permit process for clean energy projects;

(d) Improving processes for review of clean energy projects under the state environmental policy act;

(e) Requiring preparation of separate nonproject environmental impact statements for green electrolytic and renewable hydrogen projects and colocated battery energy storage facilities, onshore utility-scale wind energy projects and colocated battery energy storage facilities, and for solar energy projects and colocated battery energy storage facilities, with the goal of preparing these nonproject reviews by June 30, 2025; and

(f) Requiring the Washington State University energy program to complete by June 30, 2025, a siting information process for pumped storage projects in Washington.

PART 1
INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL

NEW SECTION. **Sec. 101.** INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL. (1) The interagency clean energy siting coordinating council is created. The coordinating council is cochaired by the department of commerce and the department of ecology with participation from the following:

(a) The office of the governor;

(b) The energy facility site evaluation council;

(c) The department of fish and wildlife;

(d) The department of agriculture;

(e) The governor's office of Indian affairs;

(f) The department of archaeology and historic preservation;

(g) The department of natural resources;

(h) The department of transportation;

(i) The utilities and transportation commission;

(j) The governor's office for regulatory innovation and assistance;

(k) Staff from the environmental justice council; and

(l) Other state and federal agencies invited by the department of commerce and the department of ecology with key roles in siting clean energy to participate on an ongoing or ad hoc basis.

(2) The department of commerce and department of ecology shall assign staff in each agency to lead the coordinating council's work and provide ongoing updates to the governor and appropriate committees of the legislature, including those with jurisdiction over the environment, energy, or economic development policy.

(3) For purposes of this section and section 102 of this act, "coordinating council" means the interagency clean energy siting coordinating council created in this section.

NEW SECTION. **Sec. 102.** INTERAGENCY CLEAN ENERGY SITING COORDINATING COUNCIL DUTIES. (1) The responsibilities of the coordinating council include, but are not limited to:

(a) Identifying actions to improve siting and permitting of clean energy projects as defined in section 201 of this act, including through review of the recommendations of the department of ecology and department of commerce's 2022 *Low Carbon Energy Facility Siting Improvement Report*, creating

implementation plans and timelines, and making recommendations for needed funding or policy changes;

(b) Tracking federal government efforts to improve clean energy project siting and permitting, including potential federal funding sources, and identifying state agency actions to improve coordination across state, local, and federal processes or to pursue supportive funding;

(c) Conducting outreach to parties with interests in clean energy siting and permitting for ongoing input on how to improve state agency processes and actions;

(d) Establishing work groups as needed to focus on specific energy types such as solar, wind, battery storage, or emerging technologies, or specific geographies for clean energy project siting;

(e) The creation of advisory committees deemed necessary to inform the development of items identified in (a) through (d) of this subsection;

(f) Supporting the governor's office of Indian affairs in creating and updating annually, or when requested by a federally recognized Indian tribe, a list of contacts at federally recognized Indian tribes, applicable tribal laws on consultation from federally recognized Indian tribes, and tribal preferences regarding outreach about clean energy project siting and permitting, such as outreach by developers directly, by state government in the government-to-government relationship, or both;

(g) Supporting the department of archaeology and historic preservation, the governor's office of Indian affairs, the department of commerce, and the energy facility site evaluation council in developing and providing to clean energy project developers a training on consultation and engagement processes for federally recognized Indian tribes. The governor's office of Indian affairs must collaborate with federally recognized Indian tribes in the development of the training;

(h) Supporting the department of archaeology and historic preservation in updating the statewide predictive archaeological model to provide clean energy project developers information about where archaeological resources are likely to be found and the potential need for archaeological investigations; and

(i) Supporting and promptly providing information to the department of ecology in support of the nonproject reviews required under section 303 of this act.

(2) The coordinating council shall provide an annual report beginning October 1, 2024, to the governor and the appropriate committees of the legislature summarizing: Progress on efficient, effective, and responsible siting and permitting of clean energy projects; areas of additional work, including where clean energy project siting and permitting outcomes are not broadly recognized as efficient, effective, or responsible; resource needs; recommendations for future nonproject environmental impact statements for categories of clean energy projects; and any needed policy changes to help achieve the deployment of clean energy necessary to meet the state's statutory greenhouse gas emissions limits, chapter 70A.45 RCW, and the clean energy transformation act requirements, chapter 19.405 RCW, and to support achieving the state energy strategy adopted by the department of commerce.

(3) The coordinating council shall:

(a) Advise the department of commerce in:

(i) Contracting with an external, independent third party to:

(A) Carry out an evaluation of state agency siting and permitting processes for clean energy projects and related federal and state regulatory requirements, including the energy facility site evaluation council permitting process authorized in chapter 80.50 RCW;

(B) Identify successful models used in other states for the siting and permitting of projects similar to clean energy projects, including local and state government programs to prepare build ready clean energy sites; and

(C) Develop recommendations for improving these processes, including potential policy changes and funding, with the goal of more efficient, effective siting of clean energy projects; and

(ii) Reporting on the evaluation and recommendations in (a)(i) of this subsection to the governor and the legislature by July 1, 2024;

(b) Pursue development of a consolidated clean energy application similar to the joint aquatic resources permit application for, at a minimum, state permits needed for clean energy projects. The department of ecology shall lead this effort and engage with federal agencies and local governments to explore inclusion of federal and local permit applications as part of the consolidated application. The department may design a single consolidated application for multiple clean energy project types, may design separate applications for individual clean energy technologies, or may design an application for related resources. The department of ecology shall provide an update on its development of consolidated permit applications for clean energy projects to the governor and legislature by December 31, 2024. The consolidated permit application process must be available, but not required, for clean energy projects;

(c) Explore development of a consolidated permit for clean energy projects. The department of ecology shall lead this effort and, in consultation with federally recognized Indian tribes, explore options including a clean energy project permit that consolidates department of ecology permits only, or that consolidates permits from multiple state and local agencies. The permit structure must identify criteria or conditions that must be met for projects to use the consolidated permit. The department of ecology may analyze criteria or conditions as part of a nonproject review under chapter 43.21C RCW. The department of ecology shall update the legislature on its evaluation of consolidated permit options and make recommendations by October 1, 2024;

(d) Determine priorities for categories of clean energy projects to be the focus of new nonproject environmental impact statements under chapter 43.21C RCW for the legislature to fund subsequent to the nonproject environmental impact statements specified in section 302 of this act; and

(e) Consider and provide recommendations to the legislature on additional benefits that could be provided to projects designated as clean energy projects of statewide significance under section 203 of this act.

PART 2
CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE AND CLEAN ENERGY COORDINATED PERMITTING PROCESS

NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Alternative energy resource" has the same meaning as defined in RCW 80.50.020.

(2) "Alternative jet fuel" means a fuel that can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure and that meets the greenhouse gas emissions reduction requirements that apply to biomass-derived fuels as defined in RCW 70A.65.010. "Alternative jet fuel" includes jet fuels derived from coprocessed feedstocks at a conventional petroleum refinery.

(3) "Applicant" means a person applying to the department of commerce for designation of a development project as a clean energy project of statewide significance under this chapter.

(4)(a) "Associated facilities" means storage, transmission, handling, or other related and supporting facilities connecting a clean energy project with the existing energy supply, processing, or distribution system including, but not limited to, battery energy storage communications, controls, mobilizing or maintenance equipment, instrumentation, and other types of ancillary storage and transmission equipment, off-line storage or venting required for efficient operation or safety of the transmission system and overhead, and surface or subsurface lines of physical access for the inspection, maintenance, and safe operations of the transmission facility and new transmission lines constructed to operate at nominal voltages of at least 115,000 volts to connect a clean energy project to the northwest power grid.

(b) Common carrier railroads or motor vehicles are not associated facilities.

(5) "Clean energy product manufacturing facility" means a facility or a project at any facility that exclusively or primarily manufactures the following products or components primarily used by such products:

(a) Vehicles, vessels, and other modes of transportation that emit no exhaust gas from the onboard source of power, other than water vapor;

(b) Charging and fueling infrastructure for electric, hydrogen, or other types of vehicles that emit no exhaust gas from the onboard source of power, other than water vapor;

(c) Renewable or green electrolytic hydrogen, including preparing renewable or green electrolytic hydrogen for distribution as an energy carrier or manufacturing feedstock, or converting it to a green hydrogen carrier;

(d) Equipment and products used to produce energy from alternative energy resources;

(e) Equipment and products used to produce nonemitting electric generation as defined in RCW 19.405.020;

(f) Equipment and products used at storage facilities;

(g) Equipment and products used to improve energy efficiency;

(h) Semiconductors or semiconductor materials as defined in RCW 82.04.2404; and

(i) Projects or facility upgrades undertaken by emissions-intensive, trade-exposed industries as classified in RCW 70A.65.110 for which the facility can demonstrate expected reductions in overall facility greenhouse gas emissions to align with the cap trajectory under chapter 70A.65 RCW, where the project does not degrade local air quality.

(6) "Clean energy project" means the following facilities together with their associated facilities:

(a) Clean energy product manufacturing facilities;

(b) Electrical transmission facilities;

(c) Facilities to produce nonemitting electric generation or electric generation from renewable resources, as defined in RCW 19.405.020, except for:

(i) Hydroelectric generation that includes new diversions, new impoundments, new bypass reaches, or the expansion of existing reservoirs constructed after May 7, 2019, unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (A) Does not conflict with existing state or federal fish recovery plans; and (B) complies with all local, state, and federal laws and regulations; and

(ii) Hydroelectric generation associated with facilities or persons that have been the subject of an enforcement action, penalty order, or settled any enforcement action or penalty order with any agreement to pay a penalty or pay for or conduct mitigation under chapter 90.48 or 77.55 RCW during the preceding 15 years that resulted in the payment of a penalty of at least $100,000 or conducting mitigation with a value of at least $100,000;

(d) Storage facilities;

(e) Facilities or projects at any facilities that exclusively or primarily process biogenic feedstocks into biofuel as defined in RCW 80.50.020;

(f) Biomass energy facilities as defined in RCW 19.405.020; or

(g) Facilities or projects at any facilities that exclusively or primarily process alternative jet fuel.

(7) "Electrical transmission facilities" has the same meaning as defined in RCW 80.50.020, except excluding electrical transmission facilities that primarily or solely serve facilities that generate electricity from fossil fuels.

(8) "Fully coordinated permit process" means a comprehensive coordinated permitting assistance approach supported by a written agreement between the project proponent, the department of ecology, and the participating agencies.

(9) "Fully coordinated project" means a clean energy project subject to the fully coordinated permit process.

(10) "Green electrolytic hydrogen" has the same meaning as defined in RCW 80.50.020.

(11) "Green hydrogen carrier" has the same meaning as defined in RCW 80.50.020.

(12) "Overburdened community" has the same meaning as defined in RCW 70A.02.010.

(13) "Permit" means any permit, license, certificate, use authorization, or other form of governmental review or approval required in order to construct, expand, or operate a project in the state of Washington.

(14) "Permit agency" means any state or local agency authorized by law to issue permits.

(15) "Project proponent" means a person, business, or any entity applying for or seeking a permit or permits in the state of Washington.

(16) "Reasonable costs" means direct and indirect expenses incurred by the department of ecology, participating agencies, or local governments in carrying out the coordinated permit process established in this chapter, including the initial assessment, environmental review, and permitting. "Reasonable costs" includes work done by agency or local government staff or consultants hired by

agencies or local governments to carry out the work plan. "Reasonable costs" may also include other costs agreed to between the applicant and the department of ecology, participating agencies, or local governments.

(17) "Renewable hydrogen" has the same meaning as defined in RCW 80.50.020.

(18) "Renewable natural gas" has the same meaning as defined in RCW 80.50.020.

(19) "Renewable resource" has the same meaning as defined in RCW 80.50.020.

(20) "Storage facility" has the same meaning as defined in RCW 80.50.020.

NEW SECTION. **Sec. 202.** CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—APPLICATION PROCESS. (1) The department of commerce shall develop an application for the designation of clean energy projects as clean energy projects of statewide significance.

(2) An application to the department of commerce by an applicant under this section must include:

(a) Information regarding the location of the project;

(b) Information sufficient to demonstrate that the project qualifies as a clean energy project;

(c) An explanation of how the project is expected to contribute to the state's achievement of the greenhouse gas emission limits in chapter 70A.45 RCW and is consistent with the state energy strategy adopted by the department of commerce, as well as any contribution that the project is expected to make to other state regulatory requirements for clean energy and greenhouse gas emissions, including the requirements of chapter 19.405, 70A.30, 70A.60, 70A.65, 70A.535, or 70A.540 RCW;

(d) An explanation of how the project is expected to contribute to the state's economic development goals, including information regarding the applicant's average employment in the state for the prior year, estimated new employment related to the project, estimated wages of employees related to the project, and estimated time schedules for completion and operation;

(e) A plan for engagement and information sharing with potentially affected federally recognized Indian tribes;

(f) A description of potential community benefits and impacts from the project, a plan for community engagement in the project development, and an explanation of how the applicant might use a community benefit agreement or other legal document that stipulates the benefits that the developer agrees to fund or furnish, in exchange for community support of a project; and

(g) Other information required by the department of commerce.

NEW SECTION. **Sec. 203.** CLEAN ENERGY PROJECTS OF STATEWIDE SIGNIFICANCE—DEPARTMENT OF COMMERCE DECISION. (1)(a) The department of commerce, in consultation with natural resources agencies and other state agencies identified as likely to have a role in siting or permitting a project, must review applications received under section 202 of this act. Within 14 business days of receiving the application, the department of commerce must mail or provide in person a written determination that the application is complete, or if the application is incomplete, an opportunity to meet with the department of commerce to determine what is

necessary to make the application complete. Within seven business days after an applicant has submitted additional information identified by the department of commerce as being necessary for a complete application, the department of commerce must notify the applicant whether the application is complete or what additional information is necessary.

(b) When the application is complete, the director of the department of commerce must determine within 60 business days whether to designate an applicant's project as a clean energy project of statewide significance.

(c) A determination of completeness does not preclude the department of commerce from requesting additional information if new information is required or substantial changes in the proposed project occur.

(2) The department of commerce may designate a clean energy project of statewide significance taking into consideration:

(a) Whether the project qualifies as a clean energy project;

(b) Whether the project will: Contribute to achieving state emission reduction limits under chapter 70A.45 RCW; be consistent with the state energy strategy adopted by the department of commerce; contribute to achieving other state requirements for clean energy and greenhouse gas emissions reductions; and support the state's economic development goals;

(c) Whether the level of applicant need for coordinated state assistance, including for siting and permitting and the complexity of the project, warrants the designation of a project;

(d) Whether the project is proposed for an area or for a clean energy technology that has been reviewed through a nonproject environmental review process, or least-conflict siting process including, but not limited to, the processes identified in sections 303 and 306 of this act, and whether the project is consistent with the recommendations of such processes;

(e) Whether the project is anticipated to have potential near-term or long-term significant positive or adverse impacts on environmental and public health, including impacts to:

(i) State or federal endangered species act listed species in Washington;

(ii) Overburdened communities; and

(iii) Rights, interests, and resources, including tribal cultural resources, of potentially affected federally recognized Indian tribes; and

(f) Input received from potentially affected federally recognized Indian tribes, which the department must solicit and acknowledge the receipt of.

(3) In determining whether to approve an application, the department of commerce must consider information contained in an application under section 202 of this act demonstrating an applicant's tribal outreach and engagement, engagement with the department of archaeology and historic preservation, and engagement with the governor's office of Indian affairs.

(4)(a) The department of commerce may designate an unlimited number of projects of statewide significance that meet the criteria of this section.

(b) An applicant whose application to the department of commerce under this chapter is not successful is eligible to reapply.

NEW SECTION. **Sec. 204.** CLEAN ENERGY COORDINATED PERMITTING PROCESS—DEPARTMENT OF ECOLOGY DUTIES. An optional, fully coordinated permit process is established for clean energy projects that do not apply to the energy facility site evaluation council under

chapter 80.50 RCW. In support of the coordinated permitting process for clean energy projects, the department of ecology must:

(1) Act as the central point of contact for the project proponent for the coordinated permitting process for projects that do not apply to the energy facility site evaluation council under chapter 80.50 RCW and communicate with the project proponent about defined issues;

(2) Conduct an initial assessment of the proposed project review and permitting actions for coordination purposes as provided in section 205 of this act;

(3) Ensure that the project proponent has been informed of all the information needed to apply for the state and local permits that are included in the coordinated permitting process;

(4) Facilitate communication between project proponents and agency staff to promote timely permit decisions and promote adherence to agreed schedules;

(5) Verify completion among participating agencies of administrative review and permit procedures, such as providing public notice;

(6) Assist in resolving any conflict or inconsistency among permit requirements and conditions;

(7) Consult with potentially affected federally recognized Indian tribes as provided in section 209 of this act in support of the coordinated permitting process;

(8) Engage with potentially affected overburdened communities as provided in section 209 of this act;

(9) Manage a fully coordinated permitting process; and

(10) Coordinate with local jurisdictions to assist with fulfilling the requirements of chapter 36.70B RCW and other local permitting processes.

NEW SECTION. **Sec. 205.** CLEAN ENERGY COORDINATED PERMITTING PROCESS INITIAL ASSESSMENT. (1) Upon the request of a proponent of a clean energy project, the department of ecology must conduct an initial assessment to determine the level of coordination needed, taking into consideration the complexity of the project and the experience of those expected to be involved in the project application and review process.

(2) The initial project assessment must consider the complexity, size, and need for assistance of the project and must address as appropriate:

(a) The expected type of environmental review;

(b) The state and local permits or approvals that are anticipated to be required for the project;

(c) The permit application forms and other application requirements of the participating permit agencies;

(d) The anticipated information needs and issues of concern of each participating agency; and

(e) The anticipated time required for the environmental review process under chapter 43.21C RCW and permit decisions by each participating agency, including the estimated time required to determine if the permit applications are complete, to conduct the environmental review under chapter 43.21C RCW, and conduct permitting processes for each participating agency. In determining the estimated time required, full consideration must be given to achieving the greatest possible efficiencies through any concurrent studies and any consolidated applications, hearings, and comment periods.

(3) The outcome of the initial assessment must be documented in writing, furnished to the project proponent, and be made available to the public.

(4) The initial assessment must be completed within 60 days of the clean energy project proponent's request to the department under this section, unless information on the project is not complete.

NEW SECTION. **Sec. 206.** CLEAN ENERGY COORDINATED PERMITTING PROCESS REQUIREMENTS AND PROCEDURES. (1) A project proponent may submit a written request to the department of ecology pursuant to section 208 of this act and a local government development agreement to support local government actions pursuant to section 207 of this act for participation in a fully coordinated permitting process. To be eligible to participate in the fully coordinated permit process:

(a) The project proponent must:

(i) Enter into a cost-reimbursement agreement pursuant to section 208 of this act;

(ii) Provide sufficient information on the project and project site to identify probable significant adverse environmental impacts;

(iii) Provide information on any voluntary mitigation measures; and

(iv) Provide information on engagement actions taken by the proponent with federally recognized Indian tribes, local government, and overburdened communities; and

(b) The department of ecology must determine that the project raises complex coordination, permit processing, or substantive permit review issues.

(2) A project proponent who requests designation as a fully coordinated project must provide the department of ecology with a complete description of the project. The department of ecology may request any information from the project proponent that is necessary to make the designation under this section and may convene a meeting of the likely participating permit agencies.

(3) For a fully coordinated permitting process, the department of ecology must serve as the main point of contact for the project proponent and participating agencies with regard to coordinating the permitting process for the project as a whole. Each participating permit agency must designate a single point of contact for coordinating with the department of ecology. The department of ecology must keep a schedule identifying required procedural steps in the permitting process and highlighting substantive issues as appropriate that must be resolved in order for the project to move forward. In carrying out these responsibilities, the department of ecology must:

(a) Conduct the duties for the coordinated permitting process as described in section 205 of this act;

(b)(i) Reach out to tribal or federal jurisdictions responsible for issuing a permit for the project and invite them to participate in the coordinated permitting process or to receive periodic updates of the project;

(ii) Reach out to local jurisdictions responsible for issuing a permit for the project and inform them of their obligations under section 207 of this act.

(4) Within 30 days, or longer with agreement of the project proponent, of the date that the department of ecology determines a project is eligible for the fully coordinated permitting process, the department of ecology shall convene a work plan meeting with the project proponent, local government, and the

participating permit agencies to develop a coordinated permitting process schedule. The work plan meeting agenda may include any of the following:

(a) Review of the permits that are anticipated for the project;

(b) A review of the permit application forms and other application requirements of the agencies that are participating in the coordinated permitting process;

(c) An estimation of the timelines that will be used by each participating permit agency to make permit decisions, including the estimated time periods required to determine if the permit applications are complete and to review or respond to each application or submittal of new information. In the development of this timeline, full attention must be given to achieving the maximum efficiencies possible through concurrent studies and consolidated applications, hearings, and comment periods; or

(d) An estimation of reasonable costs for the department of ecology, participating agencies, and the county, city, or town in which the project is proposed for environmental review and permitting, based on known information about the project.

(5) Each participating agency and the lead agency under chapter 43.21C RCW must send at least one representative qualified to discuss the applicability and timelines associated with all permits administered by that agency or jurisdiction to the work plan meeting. The department of ecology must notify any relevant federal agency or potentially affected federally recognized Indian tribe of the date of the meeting and invite them to participate in the process.

(6) Any accelerated time period for the consideration of a permit application or for the completion of the environmental review process under chapter 43.21C RCW must be consistent with any statute, rule, or regulation, or adopted state policy, standard, or guideline that requires the participation of other agencies, federally recognized Indian tribes, or interested persons in the application process.

(7) Upon the completion of the work plan meeting under subsection (4) of this section, the department of ecology must finalize the coordinated permitting process schedule, share it in writing with the project proponent, participating state agencies, lead agencies under chapter 43.21C RCW, and cities and counties subject to an agreement specified in section 207 of this act, and make the schedule available to the public.

(8) As part of the coordinated permit process, the developer may prepare a community benefit agreement or other similar document to identify how to mitigate potential community impacts or impacts to tribal rights and resources, including cultural resources. The agreement should include benefits in addition to jobs or tax revenues resulting from the project. Approval of any benefit agreement or other legal document stipulating the benefits that the developer agrees to fund or furnish, in exchange for community or tribal government support of the project, must be made by the local government legislative authority of the county, city, or town in which the project is proposed or by the relevant federally recognized Indian tribal government.

(9) If a lead agency under chapter 43.21C RCW, a permit agency, or the project proponent foresees, at any time, that it will be unable to meet the estimated timelines or other obligations under the schedule agreement, it must notify the department of ecology of the reasons for the delay and offer potential

solutions or an amended timeline. The department of ecology must notify the participating agencies and the project proponent and, upon agreement of all parties, adjust the schedule or, if necessary, schedule another work plan meeting.

(10) The project proponent may withdraw from the coordinated permitting process by submitting to the department of ecology a written request that the process be terminated. Upon receipt of the request, the department of ecology must notify each participating agency that a coordinated permitting process is no longer applicable to the project.

(11)(a) Permitting decisions made by state and local jurisdictions under the fully coordinated permitting process in this chapter are considered final, subject to any appeals process available to applicants or other parties. Applicants utilizing the fully coordinated permitting process in this chapter are not eligible for permitting under chapter 80.50 RCW unless a substantial change is made to the proposed project.

(b) Prior to considering an application under chapter 80.50 RCW from a project applicant that has previously used the fully coordinated permitting process under this chapter for the project, the energy facility site evaluation council must determine that the project applicant has made a substantial change to the project, relative to the project as it was proposed under the fully coordinated permitting process.

NEW SECTION. **Sec. 207.** CLEAN ENERGY COORDINATED PERMITTING PROCESS—LOCAL JURISDICTION AGREEMENTS. (1)(a) Counties and cities with clean energy projects that are determined to be eligible for the fully coordinated permit process shall enter into an agreement with the department of ecology or with the project proponents of clean energy projects for expediting the completion of projects.

(b) For the purposes of this section, "expedite" means that a county or city will develop and implement a method to accelerate the process for permitting and environmental review. Expediting should not disrupt or otherwise delay the permitting and environmental review of other projects or require the county or city to incur additional costs that are not compensated.

(2) Agreements required by this section must include requirements that the county or city coordinate with the department of ecology and conduct environmental review and permitting to align with the work plan described in section 206(4) of this act and:

(a) Expedite permit processing for the design and construction of the project;

(b) Expedite environmental review processing;

(c) Expedite processing of requests for street, right-of-way, or easement vacations necessary for the construction of the project;

(d) Develop and follow a plan for consultation with potentially affected federally recognized Indian tribes; and

(e) Carry out such other actions identified by the department of ecology as needed for the fully coordinated permitting process.

NEW SECTION. **Sec. 208.** CLEAN ENERGY COORDINATED PERMITTING PROCESS—COST-REIMBURSEMENT AGREEMENTS. (1) For a fully coordinated permitting process, a project proponent must enter into a cost-reimbursement agreement with the department of ecology in accordance

with RCW 43.21A.690. The cost-reimbursement agreement is to recover reasonable costs incurred by the department of ecology and participating agencies in carrying out the coordinated permitting process.

(2) The cost-reimbursement agreement may include deliverables and schedules for invoicing and reimbursement.

(3) For a fully coordinated permitting process, a project proponent must enter into a development agreement with the county, city, or town in which the project is proposed, in accordance with the authorization and requirements in RCW 36.70B.170 through 36.70B.210. The development agreement must detail the obligations of the local jurisdiction and the project applicant. It must also include, but not be limited to, the process the county, city, or town will implement for meeting its obligation to expedite the application, other clarifications for project phasing, and an estimate of reasonable costs.

(4) For a fully coordinated permitting process, a project proponent may enter directly into a cost-reimbursement agreement similar to that described in subsection (1) of this section, to reimburse the costs of a federally recognized Indian tribe for reviewing and providing input on the siting and permitting of a clean energy project.

(5) If a project proponent foresees, at any time, that it will be unable to meet its obligations under the agreement, it must notify the department of ecology and state the reasons, along with proposals for resolution.

NEW SECTION. **Sec. 209.** CLEAN ENERGY COORDINATED PERMITTING PROCESS—TRIBAL CONSULTATION AND OVERBURDENED COMMUNITY ENGAGEMENT. (1)(a) The department of ecology must offer early, meaningful, and individual consultation with any affected federally recognized Indian tribe on designated clean energy projects participating in the coordinated permitting process for the purpose of understanding potential impacts to tribal rights, interests, and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by state law, or by a state agency. The goal of the consultation process is to support the coordinated permitting process by early identification of tribal rights, interests, and resources, including tribal cultural resources, potentially affected by the project, and identifying solutions, when possible, to avoid, minimize, or mitigate any adverse effects on tribal rights, interests, or resources, including tribal cultural resources, based on environmental or permit reviews.

(b) At the earliest possible date after the initiation of the coordinated permitting process under this chapter, the department of ecology shall engage in a preapplication process with all affected federally recognized Indian tribes potentially impacted by the project.

(i) The department of ecology must notify the department of archaeology and historic preservation, the department of fish and wildlife, and all affected federally recognized Indian tribes potentially impacted by the project. The notification must include geographical location, detailed scope of the proposed project, preliminary proposed project details available to federal, state, or local governmental jurisdictions, and all publicly available materials.

(ii) The department of ecology must also offer to discuss the project with the department of archaeology and historic preservation, the department of fish and wildlife, and all affected federally recognized Indian tribes potentially impacted by the project. Any resultant discussions must include the project's impact to tribal rights, interests, and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which a tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order.

(iii) All affected federally recognized Indian tribes may submit to the department of ecology a summary of tribal issues, questions, concerns, or other statements regarding the project, which must become part of the official files maintained by the department of ecology for the coordinated permitting process. The summary does not limit what issues affected federally recognized Indian tribes may raise in the consultation process.

(iv) The notification and offer to initiate discussion must be documented by the department of ecology and delivered to the department of archaeology and historic preservation, the department of fish and wildlife, and to the affected federally recognized Indian tribe or tribes. If the discussions pursuant to (b)(ii) of this subsection do not occur, the department of ecology must document the reason why the discussion or discussions did not occur.

(v) Nothing in this section may be interpreted to require the disclosure of information that is exempt from disclosure pursuant to RCW 42.56.300 or federal law, including section 304 of the national historic preservation act of 1966. Any information that is exempt from disclosure pursuant to RCW 42.56.300 or federal law, including section 304 of the national historic preservation act of 1966, shall not become part of publicly available coordinated permitting process files.

(2) The department of ecology must identify overburdened communities, as defined in RCW 70A.02.010, which may be potentially affected by clean energy projects participating in the coordinated permitting process. The department of ecology must verify these communities have been meaningfully engaged in the regulatory processes in a timely manner by participating agencies and their comments considered for determining potential impacts.

NEW SECTION. **Sec. 210.** MISCELLANEOUS. (1) Nothing in this chapter:

(a) Prohibits an applicant, a project proponent, a state agency, a local government, or a federally recognized Indian tribe from entering into a nondisclosure agreement to protect confidential business information, trade secrets, financial information, or other proprietary information;

(b) Limits or affects other statutory provisions specific to any state agency related to that agency's procedures and protocols related to the identification, designation, or disclosure of information identified as confidential business information, trade secrets, financial information, or other proprietary information;

(c) Limits or affects the provisions of chapter 42.56 RCW as they apply to information or nondisclosure agreements obtained by a state agency under this chapter; or

(d) Relieves the responsible official under chapter 43.21C RCW for an action of the official's responsibilities under that chapter.

(2) The decisions by the department of commerce to designate a clean energy project of statewide significance must be made available to the public. Regardless of any exemptions otherwise set forth in RCW 42.56.270, publicly shared information must include the designee's name, a brief description of the project, the intended project location, a description of climate and economic development benefits to the state and communities therein, a tribal engagement plan, a community engagement plan, and a community benefit agreement if applicable.

(3) The department of commerce may terminate a designation of a clean energy project of statewide significance for reasons that include, but are not limited to, failure to comply with requirements of the designation or the emergence of new information that significantly alters the department of commerce's assessment of the applicant's application, project, or project proponent. The department of commerce must notify the applicant, project proponent, and the department of ecology of the termination in writing within 30 days.

(4) Nothing in this chapter affects the jurisdiction of the energy facility site evaluation council under chapter 80.50 RCW.

(5) This chapter does not limit or abridge the powers and duties granted to a participating permit agency under the law or laws that authorizes or requires the agency to issue a permit for a project. Each participating permit agency retains its authority to make all decisions on all substantive matters with regard to the respective component permit that is within its scope of its responsibility including, but not limited to, the determination of permit application completeness, permit approval or approval with conditions, or permit denial.

NEW SECTION. **Sec. 211.** A new section is added to chapter 80.50 RCW to read as follows:

Applicants utilizing the fully coordinated permitting process under chapter 43.--- RCW (the new chapter created in section 402 of this act) are not eligible for permitting under this chapter unless a substantial change is made to the proposed project. Prior to considering an application under this chapter from a project applicant that has previously used the fully coordinated permitting process under chapter 43.--- RCW (the new chapter created in section 402 of this act) for that project, the council must determine that the project applicant has made a substantial change to the project, relative to the project as it was proposed under the fully coordinated permitting process.

PART 3
PERMITTING AND ENVIRONMENTAL REVIEW PROVISIONS FOR CLEAN ENERGY PROJECTS

NEW SECTION. **Sec. 301.** A new section is added to chapter 43.21C RCW to read as follows:

SEPA CLEAN ENERGY FACILITIES.

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

(a) "Alternative energy resource" has the same meaning as defined in RCW 80.50.020.

(b) "Alternative jet fuel" has the same meaning as defined in section 201 of this act.

(c) "Associated facilities" has the same meaning as defined in section 201 of this act.

(d) "Clean energy product manufacturing facility" has the same meaning as defined in section 201 of this act.

(e) "Clean energy project" has the same meaning as defined in section 201 of this act.

(f) "Closely related proposals" means proposals that:

(i) Cannot or will not proceed unless the other proposals, or parts of proposals, are implemented simultaneously with them; or

(ii) Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.

(g) "Green electrolytic hydrogen" has the same meaning as defined in RCW 80.50.020.

(h) "Green hydrogen carrier" has the same meaning as defined in RCW 80.50.020.

(i) "Renewable hydrogen" has the same meaning as defined in RCW 80.50.020.

(j) "Renewable natural gas" has the same meaning as defined in RCW 80.50.020.

(k) "Renewable resource" has the same meaning as defined in RCW 80.50.020.

(l) "Storage facility" has the same meaning as defined in RCW 80.50.020.

(2)(a) After the submission of an environmental checklist and prior to issuing a threshold determination that a clean energy project proposal is likely to cause a probable significant adverse environmental impact consistent with RCW 43.21C.033, the lead agency must notify the project applicant and explain in writing the basis for its anticipated determination of significance. Prior to issuing the threshold determination of significance, the lead agency must give the project applicant the option of withdrawing and revising its application and the associated environmental checklist. The lead agency shall make its threshold determination based upon the changed or clarified application and associated environmental checklist. The responsible official has no more than 30 days from the date of the resubmission of a clarified or changed application to make a threshold determination, unless the applicant makes material changes that substantially modify the impact of the proposal, in which case the responsible official must treat the resubmitted clarified or changed application as new, and is subject to the timelines established in RCW 43.21C.033.

(b) The notification required under (a) of this subsection is not an official determination by the lead agency and is not subject to appeal under this chapter.

(c) Nothing in this subsection amends the requirements of RCW 43.21C.033 as they apply to proposals that are not for clean energy projects and nothing in this subsection precludes the lead agency from allowing an applicant for a proposal that is not a clean energy project to follow application processes similar to or the same as the application processes identified in this subsection.

(3)(a) When an environmental impact statement is required, a lead agency shall prepare a final environmental impact statement for clean energy projects within 24 months of a threshold determination of a probable significant, adverse environmental impact.

(b) A lead agency may work with clean energy project applicants to set or extend a time limit longer than 24 months under (a) of this subsection, provided the:

(i) Applicant agrees to a longer time limit; and

(ii) Responsible official for the lead agency maintains an updated schedule available for public review.

(c) For all clean energy projects that require the preparation of an environmental impact statement, the lead agency shall work collaboratively with applicants and all agencies that will have actions requiring review under this chapter to develop a schedule that shall:

(i) Include a list of, and roles and responsibilities for, all entities that have actions requiring review under this chapter for the project;

(ii) Include a comprehensive schedule of dates by which review under this chapter will be completed, all actions requiring review under this chapter will be taken, and the public will have an opportunity to participate;

(iii) Be completed within 60 days of issuance of a determination of significance;

(iv) Be updated as needed, but no later than 30 days of missing a date on the schedule; and

(v) Be available for public review on the state environmental policy act register.

(d) A lead agency may fulfill its responsibilities under this subsection with a coordinated project plan prepared pursuant to 42 U.S.C. Sec. 4370m-2(c)(1) if it includes all dates identified under (c)(ii) of this subsection.

(e) A failure to comply with the requirements in this subsection is not subject to appeal and does not provide a basis for the invalidation of the review by an agency under this chapter. Nothing in this subsection creates any civil liability for an agency or creates a new cause of action against an agency.

(f) For clean energy projects, the provisions of this subsection are in addition to the requirements of RCW 43.21C.0311.

(4) This subsection provides clarifications on the content of review under this chapter specific to clean energy projects.

(a) In defining the proposal that is the subject of review under this chapter, a lead agency may not combine the evaluation of a clean energy project proposal with other proposals unless the:

(i) Proposals are closely related; or

(ii) Applicant agrees to combining the proposals' evaluation.

(b) An agency with authority to impose mitigation under RCW 43.21C.060 may require mitigation measures for clean energy projects only to address the environmental impacts that are attributable to and caused by a proposal.

NEW SECTION. **Sec. 302.** A new section is added to chapter 43.21C RCW to read as follows:

NONPROJECT ENVIRONMENTAL IMPACT STATEMENTS.

(1) The department of ecology shall prepare nonproject environmental impact statements, pursuant to RCW 43.21C.030, that assess and disclose the probable significant adverse environmental impacts, and that identify related mitigation measures, for each of the following categories of clean energy projects, and colocated battery energy storage projects that may be included in such projects:

(a) Green electrolytic or renewable hydrogen projects;

(b) Utility-scale solar energy projects, which will consider the findings of the Washington State University least-conflict solar siting process; and

(c) Onshore utility-scale wind energy projects.

(2) The scope of a nonproject environmental review shall be limited to the probable, significant adverse environmental impacts in geographic areas that are suitable for the applicable clean energy type. The department of ecology may consider standard attributes for likely development, proximity to existing transmission or complementary facilities, and planned corridors for transmission capacity construction, reconstruction, or enlargement. The nonproject review is not required to evaluate geographic areas that lack the characteristics necessary for the applicable clean energy project type.

(3)(a) The scope of nonproject environmental impact statements must consider, as appropriate, analysis of the following probable significant adverse environmental impacts, including direct, indirect, and cumulative impacts to:

(i) Historic and cultural resources;

(ii) Species designated for protection under RCW 77.12.020 or the federal endangered species act;

(iii) Landscape scale habitat connectivity and wildlife migration corridors;

(iv) Environmental justice and overburdened communities as defined in RCW 70A.02.010;

(v) Cultural resources and elements of the environment relevant to tribal rights, interests, and resources including tribal cultural resources, and fish, wildlife, and their habitat;

(vi) Land uses, including agricultural and ranching uses; and

(vii) Military installations and operations.

(b) The nonproject environmental impact statements must identify measures to avoid, minimize, and mitigate probable significant adverse environmental impacts identified during the review. These include measures to mitigate probable significant adverse environmental impacts to elements of the environment as defined in WAC 197-11-444 as it existed as of January 1, 2023, tribal rights, interests, and resources, including tribal cultural resources, as identified in RCW 70A.65.305, and overburdened communities as defined in RCW 70A.02.010. The department of ecology shall consult with federally recognized Indian tribes and other agencies with expertise in identification and mitigation of probable, significant adverse environmental impacts including, but not limited to, the department of fish and wildlife. The department of ecology shall further specify when probable, significant adverse environmental impacts cannot be mitigated.

(4) In defining the scope of nonproject review of clean energy projects, the department of ecology shall request input from agencies, federally recognized Indian tribes, industry, stakeholders, local governments, and the public to identify the geographic areas suitable for the applicable clean energy project type, based on the climatic and geophysical attributes conducive to or required for project development. The department of ecology will provide opportunities for the engagement of tribes, overburdened communities, and stakeholders that self-identify an interest in participating in the processes.

(5) The department of ecology will offer early and meaningful consultation with any affected federally recognized Indian tribe on the nonproject review

under this section for the purpose of understanding potential impacts to tribal rights and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. Certain information obtained by the department of ecology under this section is exempt from disclosure consistent with RCW 42.56.300.

(6) Final nonproject environmental review documents for the clean energy projects identified in subsection (1) of this section, where applicable, shall include maps identifying probable, significant adverse environmental impacts for the resources evaluated. Maps must be prepared with the intention to illustrate probable, significant impacts, creating a tool that may be used by project proponents, tribes, and government to inform decision making. The maps may not be used in the place of surveys on specific parcels of land or input of a potentially affected federally recognized Indian tribe regarding specific parcels.

(7) Following the completion of a nonproject review subject to this section, the interagency clean energy siting coordinating council created in section 101 of this act must consider the findings and make recommendations to the legislature and governor on potential areas to designate as clean energy preferred zones for the clean energy project technology analyzed, and any taxation, regulatory, environmental review, or other benefits that should accrue to projects in such designated preferred zones.

(8) Nothing in this section prohibits or precludes projects from being located outside areas designated as clean energy preferred zones.

NEW SECTION. **Sec. 303.** A new section is added to chapter 43.21C RCW to read as follows:

LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT.

(1) A lead agency conducting a project-level environmental review under this chapter of a clean energy project identified in section 302(1) of this act must consider a nonproject environmental impact statement prepared pursuant to section 302 of this act in order to identify and mitigate project-level probable significant adverse environmental impacts.

(2)(a) Project-level environmental review conducted pursuant to this chapter of a clean energy project identified in section 302(1) of this act must begin with review of the applicable nonproject environmental impact statement prepared pursuant to section 302 of this act. The review must address any probable significant adverse environmental impacts associated with the proposal that were not analyzed in the nonproject environmental impact statements prepared pursuant to section 302 of this act. The review must identify any mitigation measures specific to the project for probable significant adverse environmental impacts.

(b) Lead agencies reviewing site-specific project proposals for clean energy projects under this chapter shall use the nonproject review described in this section through one of the following methods and in accordance with WAC 197-11-600, as it existed as of January 1, 2023:

(i) Use of the nonproject review unchanged, in accordance with RCW 43.21C.034**,** if the project does not cause any probable significant adverse environmental impact not identified in the nonproject review;

(ii) Preparation of an addendum;

(iii) Incorporation by reference; or

(iv) Preparation of a supplemental environmental impact statement.

(3) Clean energy project proposals following the recommendations developed in the nonproject environment review completed pursuant to section 302 of this act must be considered to have mitigated the probable significant adverse project-specific environmental impacts under this chapter for which recommendations were specifically developed unless the project-specific environmental review identifies project-level probable significant adverse environmental impacts not addressed in the nonproject environmental review.

NEW SECTION. **Sec. 304.** A new section is added to chapter 36.70B RCW to read as follows:

PROHIBITION ON DEMONSTRATION OF NEED.

During project review of a project to construct or improve facilities for the generation, transmission, or distribution of electricity, a local government may not require a project applicant to demonstrate the necessity or utility of the project other than to require, as part of a completed application under RCW 36.70B.070(2), submission of any publicly available documentation required by the federal energy regulatory commission or its delegees or the utilities and transportation commission or its delegees, or from any other federal agency with regulatory authority over the assessment of electric power transmission and distribution needs as applicable.

NEW SECTION. **Sec. 305.** A new section is added to chapter 36.01 RCW to read as follows:

A county may not prohibit the installation of wind and solar resource evaluation equipment necessary for the design and environmental planning of a renewable energy project.

NEW SECTION. **Sec. 306.** IDENTIFYING INFORMATION FOR PUMPED STORAGE SITING. (1) The Washington State University energy program shall conduct a process to identify issues and interests related to siting pumped storage projects in Washington state, to support expanded capacity to store intermittently produced renewable energy, such as from wind and solar, as part of the state's transition from fossil fuel to 100 percent clean energy. The Washington State University energy program may decide to include within the process's scope the colocation of pumped storage with wind or solar energy generation. The goal of the process is to identify and understand issues and interests of various stakeholders and federally recognized Indian tribes related to areas where pumped storage might be sited, providing useful information to developers of potential projects, and for subsequent environmental reviews under the state environmental policy act.

(2) In carrying out this process, the Washington State University energy program shall provide ample opportunities for the engagement of federally recognized Indian tribes, local governments and special purpose districts, land use and environmental organizations, and additional stakeholders that self-identify as interested in participating in the process.

(3) The Washington State University energy program must develop and make available a map and associated GIS data layers, highlighting areas identified through the process.

(4) Any information provided by tribes will help to inform the map product, but the Washington State University energy program may not include sensitive tribal information, as identified by federally recognized Indian tribes, in the publicly available map or GIS data layers. The information developed by this process and creation of the map under this section does not supplant the need for project developers to conduct early and individual outreach to federally recognized Indian tribes and other affected communities. The Washington State University energy program must take precautions to prevent disclosure of any sensitive tribal information it receives during the process, consistent with RCW 42.56.300.

(5) The pumped storage siting information process must be completed by June 30, 2025.

NEW SECTION. **Sec. 307.** (1)(a) The department must consult with stakeholders from rural communities, agriculture, natural resource management and conservation, and forestry to gain a better understanding of the benefits and impacts of anticipated changes in the state's energy system, including the siting of facilities under the jurisdiction of the energy facility site evaluation council, and to identify risks and opportunities for rural communities. This consultation must be conducted in compliance with the community engagement plan developed by the department under chapter 70A.02 RCW and with input from the environmental justice council, using the best recommended practices available at the time. The department must collect the best available information and learn from the lived experiences of people in rural communities, with the objective of improving state implementation of clean energy policies, including the siting of energy facilities under the jurisdiction of the energy facility site evaluation council, in ways that protect and improve life in rural Washington. The department must consult with an array of rural community members, including: Low-income community and vulnerable population members or representatives; legislators; local elected officials and staff; those involved with agriculture, forestry, and natural resource management and conservation; renewable energy project property owners; utilities; large energy consumers; and others.

(b) The consultation must include stakeholder meetings with at least one in eastern Washington and one in western Washington.

(c) The department's consultation with stakeholders may include, but is not limited to, the following topics:

(i) Energy facility siting under the jurisdiction of the energy facility site evaluation council, including placement of new renewable energy resources, such as wind and solar generation, pumped storage, and batteries or new nonemitting electric generation resources, and their contribution to resource adequacy;

(ii) Production of hydrogen, biofuels, and feedstocks for clean fuels;

(iii) Programs to reduce energy cost burdens on rural families and farm operations;

(iv) Electric vehicles, farm and warehouse equipment, and charging infrastructure suitable for rural use;

(v) Efforts to capture carbon or produce energy on agricultural, forest, and other rural lands, including dual use solar projects that ensure ongoing agricultural operations;

(vi) The use of wood products and forest practices that provide low-carbon building materials and renewable fuel supplies; and

(vii) The development of clean manufacturing facilities, such as solar panels, vehicles, and carbon fiber.

(2)(a) The department must complete a report on rural clean energy and resilience that takes into consideration the consultation with rural stakeholders as described in subsection (1) of this section. The report must include recommendations for how policies, projects, and investment programs, including energy facility siting through the energy facility site evaluation council, can be developed or amended to more equitably distribute costs and benefits to rural communities. The report must include an assessment of how to improve the total benefits to rural areas overall, as well as the equitable distribution of benefits and costs within rural communities.

(b) The report must include a baseline understanding of rural energy production and consumption, and collect data on their economic impacts. Specifically, the report must examine:

(i) Direct, indirect, and induced jobs in construction and operations;

(ii) Financial returns to property owners;

(iii) Effects on local tax revenues and public services, which must include whether any school districts had a net loss of resources from diminished local effort assistance payments required under chapter 28A.500 RCW and impacts to public safety, the 911 emergency communications system, mental health, criminal justice, and rural county roads;

(iv) Effects on other rural land uses, such as agriculture, natural resource management and conservation, and tourism;

(v) Geographic distribution of large energy projects previously sited or forecast to be sited in Washington;

(vi) Potential forms of economic development assistance and impact mitigation payments; and

(vii) Relevant information from the least-conflict priority solar siting pilot project in the Columbia basin of eastern and central Washington required under section 607, chapter 334, Laws of 2021.

(c) The report must include a forecast of what Washington's clean energy transition will require for siting energy projects in rural Washington. The department must gather and analyze the best available information to produce forecast scenarios.

(d) By December 1, 2024, the department must submit a final report on rural clean energy and resilience to the joint committee on energy supply, energy conservation, and energy resilience created in RCW 44.39.010 and the appropriate policy and fiscal committees of the legislature.

(3) For the purposes of this section, "department" means the department of commerce.

Sec. 308. RCW 44.39.010 and 2005 c 299 s 1 are each amended to read as follows:

There is hereby created the joint committee on energy supply ((~~and~~)), energy conservation, and energy resilience.

Sec. 309. RCW 44.39.012 and 2005 c 299 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Committee" means the joint committee on energy supply ((~~and~~)), energy conservation, and energy resilience.

(2) "Conservation" means reduced energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results.

NEW SECTION. **Sec. 310.** (1) The committee shall review the report produced by the department of commerce under section 307 of this act and consider any policy or budget recommendations to reduce impacts and increase benefits of the clean energy transition for rural communities, including mechanisms to support local tax revenues and public services.

(2) The committee must hold at least two meetings, at least one of which must be in eastern Washington. The first meeting of the committee must occur by September 30, 2023.

(3) Relevant state agencies, departments, and commissions, including the energy facility site evaluation council, shall cooperate with the committee and provide information as the chair reasonably requests.

(4) The committee shall report its findings and any recommendations to the energy facility site evaluation council and the committees of the legislature with jurisdiction over environment and energy laws by December 1, 2024. Recommendations of the committee may be made by a simple majority of committee members. In the event that the committee does not reach majority-supported recommendations, the committee may report minority findings supported by at least two members of the committee.

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

(a) "Alternative energy" means energy derived from an alternative energy resource specified in RCW 80.50.020(1).

(b) "Committee" means the joint committee on energy supply, energy conservation, and energy resilience created in RCW 44.39.010.

(6) This section expires June 30, 2025.

PART 4
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 401.** Sections 101 and 102 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 402.** Sections 201 through 210 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 403.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 14, 2023.
Passed by the Senate April 8, 2023.
Approved by the Governor May 3, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 231

[Second Substitute House Bill 1176]

CLIMATE AND CLEAN ENERGY SERVICE AND WORKFORCE PROGRAMS

AN ACT Relating to developing opportunities for service and workforce programs to support climate-ready communities; adding new sections to chapter 43.41 RCW; adding new sections to chapter 28C.18 RCW; creating new sections; and repealing RCW 43.330.310, 50.12.320, and 28C.18.170.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that climate change is one of the greatest challenges facing the state and the world today, and that we must mobilize Washington's young adults, veterans, and workforce to create the clean energy economy and strengthen our communities and ecosystems in the face of climate impacts.

(2) The legislature finds that service provides a unique opportunity to mobilize young adults and veterans to build clean energy and climate-resilient communities, economies, and ecosystems. Growing equity-centered, climate-related service programs and addressing critical gaps in service opportunities will broaden access to service, ensuring that young adults and veterans of all backgrounds, especially from overburdened communities and vulnerable populations, can serve. Doing so will also ensure that service programs address the needs of communities across the state, especially those communities disproportionately impacted by environmental and health burdens.

(3) The legislature further finds as our state transitions away from a fossil fuel-based economy, we must do so in a way that fosters innovation, investment, and growth in clean energy technology sectors and jobs so our businesses, workforce, and communities can thrive. As state, federal, local, and tribal governments implement policies to mitigate the destructive forces of climate change, there will be consequences for Washington's businesses, workers, and communities. Accomplishing an equitable transition will require identification of future industry occupations and skill needs, the existing workforce's transferrable skills to meet those needs, and the gaps that need to be addressed through training and education. The state must also provide support in the transition for workers and communities experiencing declining jobs and revenues associated with high-emissions technologies.

(4) Therefore, to create pathways for workers, young adults, and veterans to help build our clean energy, climate-resilient future, the legislature intends to create the Washington climate corps network and to direct the Washington state workforce training and education coordinating board to establish a clean energy technology advisory committee and to evaluate clean energy technology workforce needs and make recommendations to the governor and legislature.

(5) The legislature recognizes that the creation of the Washington climate corps network is necessary to create pathways for young adults and veterans to help build our clean energy, climate-resilient future and to increase equitable access to these programs. Therefore, the legislature intends for serve Washington to launch the network and conduct initial recruitment in the 2023-25 fiscal biennium, and to grow the network in future biennia.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.41 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington climate corps network is established to support and grow climate-related service opportunities for young adults and veterans with the objective of building low-carbon and climate-resilient communities, ecosystems, and economies while providing education, workforce development, and career pathways to service members, with a focus on overburdened communities as defined in RCW 70A.02.010. The Washington climate corps network shall be administered by serve Washington, an entity created in Executive Order 16-08, signed August 24, 2016. The office shall provide the administrative support to serve Washington to facilitate the establishment and operation of the Washington climate corps network.

(2) Serve Washington has the following duties:

(a) Connect, amplify, and grow climate-related service opportunities to mobilize and train young adults and veterans to build clean energy and climate-resilient communities, economies, and ecosystems, with priority on doing so in overburdened communities as defined in RCW 70A.02.010. In growing new, climate-related service opportunities, serve Washington shall consider the findings and recommendations from the clean energy technology workforce advisory committee established under section 4 of this act and the needs and recommendations developed under RCW 76.04.521 for forest sector workforce development;

(b) Establish common requirements for participating service programs including, but not limited to, a focus on climate-related activities, service member participation in events, and service member participation in the service-learning program established in (c) of this subsection;

(c) Develop and administer a service-learning program that provides training to climate corps network service members during their tenure of service. The service-learning program must provide training and learning opportunities to develop leadership skills, foster environmental stewardship and civic engagement, and expose members to an array of climate-related professional and educational opportunities. Training shall not supplant or replace state registered apprenticeship programs approved under chapter 49.04 RCW. Serve Washington shall leverage opportunities to align the service-learning program with training offered by career connect Washington under chapter 28C.30 RCW and by the department of natural resources under RCW 76.04.521. Serve Washington shall coordinate with the following entities in the design and administration of the service-learning program: Service programs; tribes; environmental justice organizations; labor organizations; institutions that provide career and technical education; the workforce training and education coordinating board created in chapter 28C.18 RCW; career connect Washington authorized under chapter 28C.30 RCW; and the department of natural resources; and

(d) Administer grants to support and broaden access to climate-related service programs, with priority to supporting service in, for, or by members of overburdened communities as defined in RCW 70A.02.010. Serve Washington shall establish a transparent process for establishing priorities and selection criteria. Serve Washington may provide grants to:

(i) Support equitable access to participation in the Washington climate corps network and reduce financial barriers for service members. This includes, but is not limited to, augmenting a service member's living allowance with the intent to

achieve or exceed the living wage established in the county of service, if a living wage is in place;

(ii) Reduce the cost of climate corps network service programs to host service members; and

(iii) Support the development of new service programs in geographic and topical areas that currently lack robust climate-related service programs.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.41 RCW to read as follows:

(1) In administration of the Washington climate corps network, the office and serve Washington have the following powers:

(a) The office, in consultation with serve Washington, may adopt rules pursuant to chapter 34.05 RCW as shall be necessary to implement the purpose of this chapter. Rules may include provisions to:

(i) Establish common requirements and eligibility criteria under section 2(2)(b) of this act;

(ii) Establish a transparent process for establishing priorities and selection criteria for grants dispersed under section 2(2)(d) of this act;

(b) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the Washington climate corps network and to expend the same or any income therefrom according to their terms and the purpose of this chapter.

(2) In carrying out its duties, serve Washington may establish such relationships with public and private institutions, the federal government, tribes, local governments, private industry, community organizations, and other segments of the general public as may be needed to promote and enable climate action through service.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) The board shall establish a clean energy technology workforce advisory committee. The goal of the clean energy technology workforce advisory committee is to advise policymakers on efforts to support the expansion of clean energy technology sectors and jobs by prioritizing transition of the existing skilled workforce to new industry sectors and providing training opportunities where needed to address gaps, as well as mitigating the impact of climate change policy transitions to workers, employers, and communities.

(2) The clean energy technology workforce advisory committee shall:

(a) Review workforce and business issues in direct employment in the energy sector, in its supply chain, and the impacts of the energy transition to dependent sectors; and

(b) Recommend strategies to prevent workforce displacement, to support job creation in clean energy technology sectors, and to provide support for workforce-related changes to businesses and for adversely impacted workers.

(3) Clean energy technology workforce advisory committee membership is open to all interested parties including, but not limited to, business and worker representatives from sectors of the economy affected by the transition to clean energy.

(4) The clean energy technology workforce advisory committee shall select a cochair representing business and a cochair representing workers to lead the

committee. Board staff shall coordinate with the cochairs to ensure that input into and deliberations of the committee reflect a balance of employer and worker perspectives.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) Each biennium, in consultation with the clean energy technology workforce advisory committee established in section 4 of this act and, at minimum, the department of commerce and the employment security department, the board shall evaluate the workforce impact of Washington's climate policies, including:

(a) Labor market trends and current and projected workforce demand in both traditional and clean energy technology professions, and restructuring of jobs and adjusted skillsets associated with climate change mitigation policies;

(b) The wage and benefits range of jobs within the clean energy technology sector;

(c) Demographics of the traditional and clean energy technology sectors;

(d) An inventory of skills needed in clean energy technology jobs, an analysis of how the skills and training of the existing workforce can fill those needs, and identification of additional workforce development needs in this sector; and

(e) Key challenges that could emerge under multiple future decarbonization scenarios based on factors such as rates of adoption of various new energy technologies; growth in demand for clean electricity; and changes in energy production and availability from both in-state and out-of-state sources.

(2) The board shall consult with career connect Washington authorized under chapter 28C.30 RCW, and shall conduct a literature review of the existing models, data, and study findings related to the evaluation in subsection (1) of this section to ensure a duplication of efforts does not occur.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) Each biennium, the board shall develop recommendations for necessary steps to support workforce training required for clean energy technology occupations. The board shall consult with impacted postsecondary training partners, including higher education providers and apprenticeship programs, and consider the following parameters in the development of their analysis and recommendations, including identifying:

(a) Occupational training and skills already covered in existing training programs;

(b) New skills that can be integrated into existing training programs;

(c) Occupations and skillsets that require new training programs to be developed; and

(d) Resources needed to deliver training programs and support workers in the transition to clean energy technology.

(2) The board shall conduct a study of the feasibility of a transition to retirement program to preserve income, medical, and retirement benefits for workers close to retirement who face job loss or transition because of energy technology sector changes. The board may contract with an organization to complete the study.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28C.18 RCW to read as follows:

Beginning November 1, 2023, and at least once every two years thereafter, the board shall report to the governor and the appropriate committees of the legislature with recommendations on how the state can support worker and employer needs in response to changing workforce requirements for clean energy technology. The report must include the recommendations of the clean energy technology workforce advisory committee established in section 4 of this act, the findings of the board's evaluation in section 5 of this act, and the board's training recommendations in section 6 of this act.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 43.330.310 (Comprehensive green economy jobs growth initiative—Establishment) and 2014 c 112 s 117;

(2) RCW 50.12.320 (Labor market research—High-demand green industries—Middle or high-wage occupations) and 2009 c 536 s 11; and

(3) RCW 28C.18.170 (Green industry skill panels—Prioritization of workforce training programs) and 2009 c 536 s 8.

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, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House March 1, 2023.

Passed by the Senate April 12, 2023.

Approved by the Governor May 3, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 232

[Engrossed Substitute Senate Bill 5447]

ALTERNATIVE JET FUEL

AN ACT Relating to promoting the alternative jet fuel industry in Washington; amending RCW 70A.535.010, 43.330.565, and 43.330.570; adding a new section to chapter 70A.535 RCW; adding new sections to chapter 28B.30 RCW; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; creating new sections; providing effective dates; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature intends to use funds from the climate commitment act to promote the production and use of sustainable aviation fuels, thereby growing the clean energy sector, addressing greenhouse gas emissions, and creating family wage manufacturing jobs in Washington. Sustainable aviation fuels represent the most significant near and midterm opportunity for aviation to reduce its greenhouse gas emissions. The use of sustainable aviation fuels will also improve air quality for airport workers and communities surrounding airports. While many efforts are underway to advance the use of sustainable aviation fuels, this act is intended to assist and accelerate those efforts.

PART I
TREATMENT OF ALTERNATIVE JET FUELS

Sec. 2. RCW 70A.535.010 and 2022 c 182 s 409 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Carbon dioxide equivalents" has the same meaning as defined in RCW 70A.45.010.

(2) "Carbon intensity" means the quantity of life-cycle greenhouse gas emissions, per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule (gCO2e/MJ).

(3) "Clean fuels program" means the requirements established under this chapter.

(4) "Cost" means an expense connected to the manufacture, distribution, or other aspects of the provision of a transportation fuel product.

(5) "Credit" means a unit of measure generated when a transportation fuel with a carbon intensity that is less than the applicable standard adopted by the department under RCW 70A.535.025 is produced, imported, or dispensed for use in Washington, such that one credit is equal to one metric ton of carbon dioxide equivalents. A credit may also be generated through other activities consistent with this chapter.

(6) "Deficit" means a unit of measure generated when a transportation fuel with a carbon intensity that is greater than the applicable standard adopted by the department under RCW 70A.535.025 is produced, imported, or dispensed for use in Washington, such that one deficit is equal to one metric ton of carbon dioxide equivalents.

(7) "Department" means the department of ecology.

(8) "Electric utility" means a consumer-owned utility or investor-owned utility, as those terms are defined in RCW 19.29A.010.

(9) "Greenhouse gas" has the same meaning as defined in RCW 70A.45.010.

(10) "Military tactical vehicle" means a motor vehicle owned by the United States department of defense or the United States military services and that is used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(11) "Motor vehicle" has the same meaning as defined in RCW 46.04.320.

(12) "Price" means the amount of payment or compensation provided as consideration for a specified quantity of transportation fuel by a consumer or end user of the transportation fuel.

(13) "Regulated party" means a producer or importer of any amount of a transportation fuel that is ineligible to generate credits under this chapter.

(14)(a) "Tactical support equipment" means equipment using a portable engine, including turbines, that meets military specifications, owned by the United States military services or its allies, and that is used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(b) "Tactical support equipment" includes, but is not limited to, engines associated with portable generators, aircraft start carts, heaters, and lighting carts.

(15) "Transportation fuel" means electricity and any liquid or gaseous fuel sold, supplied, offered for sale, or used for the propulsion of a motor vehicle or that is intended for use for transportation purposes.

(16) "Alternative jet fuel" means a fuel that can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure, and that have a lower carbon intensity than the applicable annual carbon intensity standard in Table 2 of WAC 173-424-900, as it existed on the effective date of this section. Alternative jet fuel includes jet fuels derived from coprocessed feedstocks at a conventional petroleum refinery.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70A.535 RCW to read as follows:

(1) By no later than December 31, 2023, the department must allow one or more carbon intensity pathways for alternative jet fuel.

(2) The department must allow biomethane to be claimed as the feedstock for renewable diesel and alternative jet fuel consistent with that allowable for compressed natural gas, liquified natural gas, liquified compressed natural gas, or hydrogen production. The department must include in the report required by RCW 70A.535.090(1) information that includes the amount, generation date, and geographic origin of renewable thermal certificates representing the biomethane environmental attributes claimed by each reporting entity for the fuels described in this subsection.

(3) The department must notify the department of revenue within 30 days when one or more facilities capable of producing a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year are operating in this state.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.30 RCW to read as follows:

(1) Washington State University must convene an alternative jet fuels work group to further the development of alternative jet fuel as a productive industry in Washington. The work group must include members from the legislature and sectors involved in alternative jet fuel research, development, production, and utilization. The work group must provide a report including any pertinent recommendations to the governor and appropriate committees of the legislature by December 1, 2024, and December 1st of every even-numbered year until December 1, 2028.

(2) This section expires January 1, 2029.

Sec. 5. RCW 43.330.565 and 2022 c 292 s 102 are each amended to read as follows:

(1) The statewide office of renewable fuels is established within the department. The office shall report to the director of the department. The office may employ staff as necessary to carry out the office's duties as prescribed by chapter 292, Laws of 2022, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to leverage, support, and integrate with other state agencies to:

(a) Accelerate comprehensive market development with assistance along the entire life cycle of renewable fuel projects;

(b) Support research into and development and deployment of renewable fuel and the production, distribution, and use of renewable and green electrolytic hydrogen and their derivatives, as well as product engineering and manufacturing relating to the production and use of such hydrogen and its derivatives;

(c) Drive job creation, improve economic vitality, and support the transition to clean energy;

(d) Further the development and use of alternative jet fuels as a productive industry in Washington;

(e) Enhance resiliency by using renewable fuels, alternative jet fuels, and green electrolytic hydrogen to support climate change mitigation and adaptations; and

(((~~(e)~~))) (f) Partner with overburdened communities to ensure communities equitably benefit from renewable and clean fuels efforts.

Sec. 6. RCW 43.330.570 and 2022 c 292 s 103 are each amended to read as follows:

(1) The office shall:

(a) Coordinate with federally recognized tribes, local government, state agencies, federal agencies, private entities, the state's public four-year institutions of higher education, labor unions, and others to facilitate and promote multi-institution collaborations to drive research, development, and deployment efforts in the production, distribution, and use of alternative jet fuels and renewable fuels including, but not limited to, green electrolytic hydrogen;

(b) Review existing renewable fuels, alternative jet fuels, and green electrolytic hydrogen initiatives, policies, and public and private investments, and tax and regulatory incentives, including assessment of adequacy of feedstock supply and in-state feedstock, renewable fuels, and alternative jet fuels production;

(c) Consider funding opportunities that provide for the coordination of public and private funds for the purposes of developing and deploying renewable fuels, alternative jet fuels, and green electrolytic hydrogen;

(d) Assess opportunities for and barriers to deployment of renewable fuels, alternative jet fuels, and green electrolytic hydrogen in hard to decarbonize sectors of the state economy;

(e) Request recommendations from the Washington state association of fire marshals regarding fire and other safety standards adopted by the United States department of energy and recognized national and international fire and safety code development authorities regarding renewable fuels, alternative jet fuels, and green electrolytic hydrogen;

(f) By December 1, 2023, develop a plan and recommendations for consideration by the legislature and governor on renewable fuels and green electrolytic hydrogen policy and public funding including, but not limited to, project permitting, state procurement, and pilot projects; and

(g) Encourage new and support existing public-private partnerships to increase coordinated planning and deployment of renewable fuels, alternative jet fuels, and green electrolytic hydrogen.

(2) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and

must deposit these funds in the renewable fuels accelerator account created in RCW 43.330.575.

(3) In carrying out its duties, the office must collaborate with the department, the department of ecology, the department of transportation, the utilities and transportation commission, electric utilities in Washington state, the Washington State University extension energy program, the alternative jet fuel work group established in section 4 of this act, and all other relevant state agencies. The office must also consult with and seek to involve federally recognized tribes, project developers, labor and industry trade groups, and other interested parties, in the development of policy analysis and recommended programs or projects.

(4) The office may cooperate with other state agencies in compiling data regarding the use of renewable fuels and green electrolytic hydrogen in state operations, including motor vehicle fleets, the state ferry system, and nonroad equipment.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28B.30 RCW to read as follows:

(1) To assess the potential cobenefits of alternative jet fuel for Washington's communities, by December 1, 2024, and December 1st of each year until such time as the joint legislative audit and review committee has completed its final report on the tax preferences contained in sections 9 through 12 of this act, the University of Washington's department of environmental and occupational health sciences, in collaboration with Washington State University, shall calculate emissions of ultrafine and fine particulate matter and sulfur oxides from the use of alternative jet fuel as compared to conventional fossil jet fuel, including the potential regional air quality benefits of any reductions. This emissions calculation shall be conducted for alternative jet fuel used from an international airport owned by a port district in a county with a population greater than 1,500,000. The University of Washington may access and use any data necessary to complete the reporting requirements of this section.

(2) To facilitate the calculation required in subsection (1) of this section, an international airport owned by a port district in a county with a population greater than 1,500,000 must report to the University of Washington the total annual volume of conventional and alternative jet fuel used for flights departing the airport by July 1, 2024, and July 1st of each year until such time as the joint legislative audit and review committee has completed its final report on the tax preferences contained in sections 9 through 12 of this act.

PART II

ALTERNATIVE JET FUEL TAX INCENTIVES

NEW SECTION. **Sec. 8.** (1) This section is the tax preference performance statement for the tax preferences contained in sections 9 through 12, chapter . . ., Laws of 2023 (sections 9 through 12 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to improve industry competitiveness as indicated in RCW 82.32.808(2)(b).

(3) It is the legislature's specific public policy objective to encourage the production and use of alternative jet fuels. It is also the legislature's intent to support the development of the alternative jet fuels industry in Washington by providing targeted tax relief for such businesses.

(4) The legislature intends to extend the expiration date of the tax preferences contained in this act if a review finds:

(a) An increase in the production and use of alternative jet fuels in Washington by persons claiming the tax preferences in this act;

(b) That the production and use of alternative jet fuels in this state does not result in additional pollution including, but not limited to, pollution from per-and polyfluoroalkyl substances, noxious gases, ultrafine particles, lead, or other metals; and

(c) That the alternative jet fuel industry has created measurable economic growth in Washington.

(5) The review conducted by the joint legislative audit and review committee must include a racial equity analysis on air travel-related pollution in communities near an international airport owned by a port district in a county with a population greater than 1,500,000.

(6) 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 access and use data from an international airport owned by a port district in a county with a population greater than 1,500,000, the University of Washington, reports compiled by the Washington State University pursuant to section 7 of this act, and any other data collected by the state as it deems necessary.

(7) The joint legislative audit and review committee must complete a preliminary report by December 1, 2032.

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

(1) Upon every person engaging within the state in the business of manufacturing alternative jet fuel; as to such persons, the amount of the tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) Upon every person engaging in making sales, at retail or wholesale, of manufactured alternative jet fuel; as to such persons, the amount of the tax with respect to such business is equal to the gross proceeds of sales of the alternative jet fuel, multiplied by the rate of 0.275 percent.

(3) For the purposes of this section, "alternative jet fuel" means a fuel that can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure and that has lower greenhouse gas emissions based on a full life-cycle analysis when compared to conventional petroleum jet fuel for which it is capable as serving as a substitute, as certified by the department of ecology using the methods for determining the carbon intensity of fuels under chapter 70A.535 RCW. "Alternative jet fuel" includes jet fuels derived from coprocessed feedstocks at a conventional petroleum refinery as certified by the department of ecology using the methods for determining the carbon intensity of fuels under chapter 70A.535 RCW.

(4) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(5)(a) The tax rate under subsections (1) and (2) of this section takes effect on the first day of the first calendar quarter following the month in which the department receives notice from the department of ecology that there are one or more facilities operating in this state with a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year, as required in section 3 of this act.

(b) The tax rate expires nine calendar years after the close of the calendar year in which the tax rate under subsections (1) and (2) of this section takes effect.

NEW SECTION. **Sec. 10.** A new section is added to chapter 82.04 RCW to read as follows:

(1)(a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the manufacturing of alternative jet fuel.

(b) Except as provided in (c) of this subsection, the credit under this section is equal to $1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional petroleum jet fuel and is sold during the prior calendar year by:

(i) A business that produces alternative jet fuel and is located in a qualifying county; or

(ii) A business's designated alternative jet fuel blender that is located in this state.

(c) The credit amount under (b) of this subsection must increase by 2 cents for each additional one percent reduction in carbon dioxide equivalent emissions beyond 50 percent, not to exceed $2 for each gallon of alternative jet fuel.

(d) A person may not receive credit under both (b)(i) and (ii) of this subsection.

(e) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional petroleum jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.

(f) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.

(g) Contract pricing for sales of alternative jet fuel between a person claiming the credit under this section and the final consumer must reflect the per gallon credit under (b) and (c) of this subsection.

(h) A credit under this section may not be claimed until the department of ecology, in consultation with the department of archeology and historic preservation, verifies that the person applying for the credit is not engaged in the manufacturing of alternative jet fuel on the footprint of a structure listed with the department of archeology and historic preservation as a historic cemetery or tribal burial grounds as per chapter 27.44 or 68.60 RCW. If the department of ecology has not made a determination within 60 days of the person requesting verification under this subsection, the application is deemed to be verified.

(2) A person may not receive credit under this section for amounts claimed as credits under section 11 of this act or chapter 82.16 RCW.

(3) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department.

(4) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) Documentation of the total amount of alternative jet fuel manufactured and sold in the prior calendar year;

(iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the definition in section 9(3) of this act and the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under chapter 70A.535 RCW;

(iv) Documentation sufficient to verify compliance with subsection (1)(g) of this section; and

(v) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.

(5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.

(6) If a person fails to supply the information as required in subsection (4) of this section, the department must deny the application.

(7)(a) The credit under this section may only be claimed against taxes due under section 9 of this act, less any taxable amount for which a credit is allowed under RCW 82.04.440.

(b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.

(c) No refunds may be granted for credits under this section.

(8) For the purposes of this section:

(a) "Alternative jet fuel" has the same meaning as in RCW 70A.535.010.

(b) "Carbon dioxide equivalent" has the same meaning as in RCW 70A.45.010.

(c) "Qualifying county" means a county that has a population less than 650,000 at the time an application for a credit under this section is received by the department.

(9)(a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under subsection (1)(f) of this section was received by the department.

(b) Credits may not be earned beginning nine calendar years after the close of the calendar year in which the credit may be earned, as provided in (a) of this subsection.

(10) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. **Sec. 11.** A new section is added to chapter 82.04 RCW to read as follows:

(1)(a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the use of alternative jet fuel.

(b) Except as provided in (c) of this subsection, the credit under this section is equal to $1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional petroleum jet fuel and is purchased during the prior calendar year by a business for use as alternative jet fuel for flights departing in this state.

(c) The credit amount under (b) of this subsection must increase by 2 cents for each additional one percent reduction in carbon dioxide equivalent emissions beyond 50 percent, not to exceed $2 for each gallon of alternative jet fuel.

(d) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional petroleum jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.

(e) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.

(2) A person may not receive credit under this section for amounts claimed as credits under section 10 of this act or chapter 82.16 RCW.

(3) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department.

(4) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) Documentation of the amount of alternative jet fuel purchased by the business in the prior calendar year;

(iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the definition in section 9(3) of this act and the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under chapter 70A.535 RCW; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.

(5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.

(6) If a person fails to supply the information as required in subsection (4) of this section, the department must deny the application.

(7)(a) The credit under this section may be used against any tax due under this chapter.

(b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.

(c) No refunds may be granted for credits under this section.

(8) For the purposes of this section:

(a) "Alternative jet fuel" has the same meaning as in RCW 70A.535.010.

(b) "Carbon dioxide equivalent" has the same meaning as in RCW 70A.45.010.

(9)(a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under subsection (1)(e) of this section was received by the department.

(b) Credits may not be earned beginning nine calendar years after the close of the calendar year in which the credit may be earned, as provided in (a) of this subsection.

(10) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. **Sec. 12.** A new section is added to chapter 82.16 RCW to read as follows:

(1)(a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the use of alternative jet fuel.

(b) Except as provided in (c) of this subsection, the credit under this section is equal to $1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional petroleum jet fuel and is purchased during the prior calendar year by a business for use as alternative jet fuel for flights departing in this state.

(c) The credit amount under (b) of this subsection must increase by 2 cents for each additional one percent reduction in carbon dioxide equivalent emissions beyond 50 percent, not to exceed $2 for each gallon of alternative jet fuel.

(d) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional petroleum jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.

(e) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.

(2) A person may not receive credit under this section for amounts claimed as credits under chapter 82.04 RCW.

(3) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department.

(4) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) Documentation of the amount of alternative jet fuel purchased by the business in the prior calendar year;

(iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the definition in section 9(3) of this act and the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under chapter 70A.535 RCW; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.

(5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.

(6) If a person fails to supply the information as required in subsection (4) of this section, the department must deny the application.

(7)(a) The credit under this section may be used against any tax due under this chapter.

(b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.

(c) No refunds may be granted for credits under this section.

(8) The definitions in section 11 of this act apply to this section.

(9)(a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under subsection (1)(e) of this section was received by the department.

(b) Credits may not be earned beginning nine calendar years after the close of the calendar year in which the credit may be earned, as provided in (a) of this subsection.

(10) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 14.** RCW 82.32.805 does not apply to this act.

NEW SECTION. **Sec. 15.** Sections 9 through 12 of this act take effect July 1, 2024.

NEW SECTION. **Sec. 16.** Sections 1 through 7 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023.

Passed by the Senate April 19, 2023.

Passed by the House April 14, 2023.

Approved by the Governor May 3, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 233

[House Bill 1416]

ELECTRIC UTILITIES—CLEAN ENERGY TRANSFORMATION ACT—MARKET CUSTOMERS

AN ACT Relating to applying the affected market customer provisions of the Washington clean energy transformation act to nonresidential customers of consumer-owned utilities; and amending RCW 19.405.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.405.020 and 2020 c 20 s 1004 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Allocation of electricity" means, for the purposes of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state.

(2) "Alternative compliance payment" means the payment established in RCW 19.405.090(2).

(3) "Attorney general" means the Washington state office of the attorney general.

(4) "Auditor" means: (a) The Washington state auditor's office or its designee for utilities under its jurisdiction under this chapter that are consumer-owned utilities; or (b) an independent auditor selected by a utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(5)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(6) "Carbon dioxide equivalent" has the same meaning as defined in RCW 70A.45.010.

(7)(a) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(b)(i) "Coal-fired resource" does not include an electric generating facility that is included as part of a limited duration wholesale power purchase, not to exceed one month, made by an electric utility for delivery to retail electric customers that are located in this state for which the source of the power is not known at the time of entry into the transaction to procure the electricity.

(ii) "Coal-fired resource" does not include an electric generating facility that is subject to an obligation to meet the standards contained in RCW 80.80.040(3)(c).

(8) "Commission" means the Washington utilities and transportation commission.

(9) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(10) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(11) "Demand response" means changes in electric usage by demand-side resources from their normal consumption patterns in response to changes in the price of electricity, or to incentive payments designed to induce lower electricity use, at times of high wholesale market prices or when system reliability is jeopardized. "Demand response" may include measures to increase or decrease electricity production on the customer's side of the meter in response to incentive payments.

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

(13) "Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

(14) "Electric utility" or "utility" means a consumer-owned utility or an investor-owned utility.

(15) "Energy assistance" means a program undertaken by a utility to reduce the household energy burden of its customers.

(a) Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household's energy burden.

(b) Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.

(16) "Energy assistance need" means the amount of assistance necessary to achieve a level of household energy burden established by the department or commission.

(17) "Energy burden" means the share of annual household income used to pay annual home energy bills.

(18)(a) "Energy transformation project" means a project or program that: Provides energy-related goods or services, other than the generation of electricity; results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption; and provides benefits to the customers of an electric utility.

(b) "Energy transformation project" may include but is not limited to:

(i) Home weatherization or other energy efficiency measures, including market transformation for energy efficiency products, in excess of: The target

established under RCW 19.285.040(1), if applicable; other state obligations; or other obligations in effect on May 7, 2019;

(ii) Support for electrification of the transportation sector including, but not limited to:

(A) Equipment on an electric utility's transmission and distribution system to accommodate electric vehicle connections, as well as smart grid systems that enable electronic interaction between the electric utility and charging systems, and facilitate the utilization of vehicle batteries for system needs;

(B) Incentives for the sale or purchase of electric vehicles, both battery and fuel cell powered, as authorized under state or federal law;

(C) Incentives for the installation of charging equipment for electric vehicles;

(D) Incentives for the electrification of vehicle fleets utilizing a battery or fuel cell for electric supply;

(E) Incentives to install and operate equipment to produce or distribute renewable hydrogen; and

(F) Incentives for renewable hydrogen fueling stations;

(iii) Investment in distributed energy resources and grid modernization to facilitate distributed energy resources and improved grid resilience;

(iv) Investments in equipment for renewable natural gas processing, conditioning, and production, or equipment or infrastructure used solely for the purpose of delivering renewable natural gas for consumption or distribution;

(v) Contributions to self-directed investments in the following measures to serve the sites of large industrial gas and electrical customers: (A) Conservation; (B) new renewable resources; (C) behind-the-meter technology that facilitates demand response cooperation to reduce peak loads; (D) infrastructure to support electrification of transportation needs, including battery and fuel cell electrification; or (E) renewable natural gas processing, conditioning, or production; and

(vi) Projects and programs that achieve energy efficiency and emission reductions in the agricultural sector, including bioenergy and renewable natural gas projects.

(19) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such a material.

(20) "Governing body" means: The council of a city or town; the commissioners of an irrigation district, municipal electric utility, or public utility district; or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

(21) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department of ecology by rule under RCW 70A.45.010.

(22) "Greenhouse gas content calculation" means a calculation expressed in carbon dioxide equivalent and made by the department of ecology, in consultation with the department, for the purposes of determining the emissions from the complete combustion or oxidation of fossil fuels and the greenhouse gas emissions in electricity for use in calculating the greenhouse gas emissions content in electricity.

(23) "Highly impacted community" means a community designated by the department of health based on cumulative impact analyses in RCW 19.405.140

or a community located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

(24) "Investor-owned utility" means a company owned by investors that meets the definition of "corporation" in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(25) "Low-income" means household incomes as defined by the department or commission, provided that the definition may not exceed the higher of eighty percent of area median household income or two hundred percent of the federal poverty level, adjusted for household size.

(26)(a) "Market customer" means a nonresidential ((~~retail electric~~)) customer of an electric utility that: (i) Purchases electricity from an entity or entities other than the utility with which it is directly interconnected; or (ii) generates electricity to meet one hundred percent of its own needs.

(b) An "affected market customer" is a customer of ((~~an investor-owned~~)) a utility who becomes a market customer after May 7, 2019.

(27)(a) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate.

(b) "Natural gas" does not include renewable natural gas or the portion of renewable natural gas when blended into other fuels.

(28)(a) "Nonemitting electric generation" means electricity from a generating facility or a resource that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation.

(b) "Nonemitting electric generation" does not include renewable resources.

(29)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity, including but not limited to the facility's fuel type, geographic location, vintage, qualification as a renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(30) "Qualified transmission line" means an overhead transmission line that is: (a) Designed to carry a voltage in excess of one hundred thousand volts; (b) owned in whole or in part by an investor-owned utility; and (c) primarily or exclusively used by such an investor-owned utility as of May 7, 2019, to transmit electricity generated by a coal-fired resource.

(31) "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and

the certificate is verified by a renewable energy credit tracking system selected by the department.

(32) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

(33) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(34) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (i) biomass energy.

(35)(a) "Retail electric customer" means a person or entity that purchases electricity from any electric utility for ultimate consumption and not for resale.

(b) "Retail electric customer" does not include, in the case of any electric utility, any person or entity that purchases electricity exclusively from carbon-free and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved by an order of the commission prior to May 7, 2019.

(36) "Retail electric load" means the amount of megawatt-hours of electricity delivered in a given calendar year by an electric utility to its Washington retail electric customers. "Retail electric load" does not include:

(a) Megawatt-hours delivered from qualifying facilities under the federal public utility regulatory policies act of 1978, P.L. 95-617, in operation prior to May 7, 2019, provided that no entity other than the electric utility can make a claim on delivery of the megawatt-hours from those resources; or

(b) Megawatt-hours delivered to an electric utility's system from a renewable resource through a voluntary renewable energy purchase by a retail electric customer of the utility in which the renewable energy credits associated with the megawatt-hours delivered are retired on behalf of the retail electric customer.

(37) "Thermal renewable energy credit" means, with respect to a facility that generates electricity using biomass energy that also generates thermal energy for a secondary purpose, a renewable energy credit that is equivalent to three million four hundred twelve thousand British thermal units of energy used for such secondary purpose.

(38) "Unbundled renewable energy credit" means a renewable energy credit that is sold, delivered, or purchased separately from electricity. All thermal renewable energy credits are considered unbundled renewable energy credits.

(39) "Unspecified electricity" means an electricity source for which the fuel attribute is unknown or has been separated from the energy delivered to retail electric customers.

(40) "Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

Passed by the House February 9, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 3, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 234

[Substitute House Bill 1236]

PUBLIC TRANSIT AGENCIES—TRANSPORTATION FUEL

AN ACT Relating to enhancing access to clean fuel for agencies providing public transportation; adding a new section to chapter 36.57A RCW; adding a new section to chapter 36.56 RCW; adding a new section to chapter 35.92 RCW; adding a new section to chapter 36.57 RCW; adding a new section to chapter 81.112 RCW; and adding a new section to chapter 81.104 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 36.57A RCW to read as follows:

(1) A public transportation benefit area authority may:

(a) Produce, distribute, and use green electrolytic hydrogen and renewable hydrogen for internal operations;

(b) Produce, distribute for sale, or sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer; and

(c)(i) Sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer to or through facilities that distribute, compress, store, liquefy, or dispense green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel.

(ii) For the purposes of (c)(i) of this subsection, public transportation benefit areas may own, operate, or own and operate pipelines or dispensing facilities for green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel if all such pipelines and dispensing facilities are: (A) Located in the area where the public transportation benefit area is authorized to provide public transportation service; (B) located within the county where the public transportation benefit area is authorized to provide public transportation service and are service connected; or (C) located within the county where the public transportation benefit area is authorized to provide public transportation service and are pursuant to a partnership or agreement with one or more public or private partners.

(2) Nothing in this section authorizes a public transportation benefit area to sell green electrolytic hydrogen or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(3) Nothing in this section subjects public transportation benefit areas to the jurisdiction of the utilities and transportation commission, except that the utilities and transportation commission may administer and enforce state and federal pipeline safety requirements, as authorized in chapter 81.88 RCW, including applicable fees payable to the utilities and transportation commission.

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

(a) "Green electrolytic hydrogen" has the same meaning provided in RCW 54.04.190.

(b) "Renewable hydrogen" has the same meaning provided in RCW 54.04.190.

(c) "Gas company" has the same meaning provided in RCW 80.04.010.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.56 RCW to read as follows:

(1) A county that has assumed the transportation functions of a metropolitan municipal corporation may:

(a) Produce, distribute, and use green electrolytic hydrogen and renewable hydrogen for internal operations;

(b) Produce, distribute for sale, or sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer; and

(c)(i) Sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer to or through facilities that distribute, compress, store, liquefy, or dispense green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel.

(ii) For the purposes of (c)(i) of this subsection, county-assumed metropolitan municipal corporations may own, operate, or own and operate pipelines or dispensing facilities for green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel if all such pipelines and dispensing facilities are: (A) Located in the area where the county-assumed metropolitan municipal corporation is authorized to provide public transportation service; (B) located within the area where the county-assumed metropolitan municipal corporation is authorized to provide public transportation service and are service connected; or (C) located within the area where the county-assumed metropolitan municipal corporation is authorized to provide public transportation service and are pursuant to a partnership or agreement with one or more public or private partners.

(2) Nothing in this section authorizes a county-assumed metropolitan municipal corporation to sell green electrolytic hydrogen or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(3) Nothing in this section subjects a county-assumed metropolitan municipal corporation to the jurisdiction of the utilities and transportation commission, except that the utilities and transportation commission may administer and enforce state and federal pipeline safety requirements, as authorized in chapter 81.88 RCW, including applicable fees payable to the utilities and transportation commission.

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

(a) "Green electrolytic hydrogen" has the same meaning provided in RCW 54.04.190.

(b) "Renewable hydrogen" has the same meaning provided in RCW 54.04.190.

(c) "Gas company" has the same meaning provided in RCW 80.04.010.

NEW SECTION. **Sec. 3.** A new section is added to chapter 35.92 RCW to read as follows:

(1) A city or town that acquires and operates transportation facilities as a city transportation authority consistent with RCW 35.92.060 may:

(a) Produce, distribute, and use green electrolytic hydrogen and renewable hydrogen for internal operations;

(b) Produce, distribute for sale, or sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer; and

(c)(i) Sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer to or through facilities that distribute, compress, store, liquefy, or dispense green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel.

(ii) For the purposes of (c)(i) of this subsection, city transportation authorities may own, operate, or own and operate pipelines or dispensing facilities for green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel if all such pipelines and dispensing facilities are: (A) Located in the area where the city transportation authority is authorized to provide public transportation service; (B) located within the area where the city transportation authority is authorized to provide public transportation service and are service connected; or (C) located within the area where the city transportation authority is authorized to provide public transportation service and are pursuant to a partnership or agreement with one or more public or private partners.

(2) Nothing in this section authorizes a city transportation authority to sell green electrolytic hydrogen or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(3) Nothing in this section subjects a city transportation authority to the jurisdiction of the utilities and transportation commission, except that the utilities and transportation commission may administer and enforce state and federal pipeline safety requirements, as authorized in chapter 81.88 RCW, including applicable fees payable to the utilities and transportation commission.

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

(a) "Green electrolytic hydrogen" has the same meaning provided in RCW 54.04.190.

(b) "Renewable hydrogen" has the same meaning provided in RCW 54.04.190.

(c) "Gas company" has the same meaning provided in RCW 80.04.010.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.57 RCW to read as follows:

(1) A county public transportation authority as authorized under this chapter and an unincorporated transportation benefit area as authorized in RCW 36.57.100 may:

(a) Produce, distribute, and use green electrolytic hydrogen and renewable hydrogen for internal operations;

(b) Produce, distribute for sale, or sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer; and

(c)(i) Sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer to or through facilities that distribute, compress, store, liquefy, or dispense green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel.

(ii) For the purposes of (c)(i) of this subsection, county public transportation authorities and unincorporated transportation benefit areas may own, operate, or own and operate pipelines or dispensing facilities for green electrolytic hydrogen

or renewable hydrogen for end use as a transportation fuel if all such pipelines and dispensing facilities are: (A) Located in the area where the county public transportation authority or unincorporated transportation benefit area is authorized to provide public transportation service; (B) located within the area where the county public transportation authority or unincorporated transportation benefit area is authorized to provide public transportation service and are service connected; or (C) located within the area where the county public transportation authority or unincorporated transportation benefit area is authorized to provide public transportation service and are pursuant to a partnership or agreement with one or more public or private partners.

(2) Nothing in this section authorizes a county public transportation authority or unincorporated transportation benefit area to sell green electrolytic hydrogen or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(3) Nothing in this section subjects a county public transportation authority or unincorporated transportation benefit area to the jurisdiction of the utilities and transportation commission, except that the utilities and transportation commission may administer and enforce state and federal pipeline safety requirements, as authorized in chapter 81.88 RCW, including applicable fees payable to the utilities and transportation commission.

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

(a) "Green electrolytic hydrogen" has the same meaning provided in RCW 54.04.190.

(b) "Renewable hydrogen" has the same meaning provided in RCW 54.04.190.

(c) "Gas company" has the same meaning provided in RCW 80.04.010.

NEW SECTION. **Sec. 5.** A new section is added to chapter 81.112 RCW to read as follows:

(1) A regional transit authority may:

(a) Produce, distribute, and use green electrolytic hydrogen and renewable hydrogen for internal operations;

(b) Produce, distribute for sale, or sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer; and

(c)(i) Sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer to or through facilities that distribute, compress, store, liquefy, or dispense green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel.

(ii) For the purposes of (c)(i) of this subsection, regional transit authorities may own, operate, or own and operate pipelines or dispensing facilities for green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel if all such pipelines and dispensing facilities are: (A) Located in the area where the regional transit authority is authorized to provide public transportation service; (B) located within the area where the regional transit authority is authorized to provide public transportation service and are service connected; or (C) located within the area where the regional transit authority is authorized to provide public transportation service and are pursuant to a partnership or agreement with one or more public or private partners.

(2) Nothing in this section authorizes a regional transit authority to sell green electrolytic hydrogen or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(3) Nothing in this section subjects a regional transit authority to the jurisdiction of the utilities and transportation commission, except that the utilities and transportation commission may administer and enforce state and federal pipeline safety requirements, as authorized in chapter 81.88 RCW, including applicable fees payable to the utilities and transportation commission.

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

(a) "Green electrolytic hydrogen" has the same meaning provided in RCW 54.04.190.

(b) "Renewable hydrogen" has the same meaning provided in RCW 54.04.190.

(c) "Gas company" has the same meaning provided in RCW 80.04.010.

NEW SECTION. **Sec. 6.** A new section is added to chapter 81.104 RCW to read as follows:

(1) A transit agency that has established a high capacity transportation corridor area may:

(a) Produce, distribute, and use green electrolytic hydrogen and renewable hydrogen for internal operations;

(b) Produce, distribute for sale, or sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer; and

(c)(i) Sell green electrolytic hydrogen and renewable hydrogen at wholesale or to an end-use customer to or through facilities that distribute, compress, store, liquefy, or dispense green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel.

(ii) For the purposes of (c)(i) of this subsection, a transit agency that has established a high capacity transportation corridor area may own, operate, or own and operate pipelines or dispensing facilities for green electrolytic hydrogen or renewable hydrogen for end use as a transportation fuel if all such pipelines and dispensing facilities are: (A) Located where the high capacity transportation corridor area is authorized to provide public transportation service; (B) located within the area where the high capacity transportation corridor area is authorized to provide public transportation service and are service connected; or (C) located within the area where the high capacity transportation corridor area is authorized to provide public transportation service and are pursuant to a partnership or agreement with one or more public or private partners.

(2) Nothing in this section authorizes a transit agency that has established a high capacity transportation corridor area to sell green electrolytic hydrogen or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(3) Nothing in this section subjects a transit agency that has established a high capacity transportation corridor area to the jurisdiction of the utilities and transportation commission, except that the utilities and transportation commission may administer and enforce state and federal pipeline safety requirements, as authorized in chapter 81.88 RCW, including applicable fees payable to the utilities and transportation commission.

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

(a) "Green electrolytic hydrogen" has the same meaning provided in RCW 54.04.190.

(b) "Renewable hydrogen" has the same meaning provided in RCW 54.04.190.

(c) "Gas company" has the same meaning provided in RCW 80.04.010.

Passed by the House February 16, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 3, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 235

[Engrossed Senate Bill 5352]

VEHICULAR PURSUITS—VARIOUS PROVISIONS

AN ACT Relating to permitting peace officers to engage in a vehicular pursuit only when there is reasonable suspicion to believe that a person in the vehicle has committed or is committing a violent offense as defined in RCW 9.94A.030, a sex offense under RCW 9.94A.030, a vehicular assault offense under RCW 46.61.522, an assault in the first, second, third, or fourth degree offense under chapter 9A.36 RCW only if the assault involves domestic violence as defined in RCW 10.99.020, an escape under chapter 9A.76 RCW, or a driving under the influence offense under RCW 46.61.502, and imposing training requirements on pursuing officers, and modifying safety and supervision requirements on vehicular pursuits; amending RCW 10.116.060; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 10.116.060 and 2021 c 320 s 7 are each amended to read as follows:

(1) A peace officer may not engage in a vehicular pursuit, unless:

(a)((~~(i)~~)) There is ((~~probable cause~~)) reasonable suspicion to believe that a person in the vehicle has committed or is committing ((~~a~~)):

(i) A violent offense ((~~or~~)) as defined in RCW 9.94A.030;

(ii) A sex offense as defined in RCW 9.94A.030((~~, or an~~));

(iii) A vehicular assault offense under RCW 46.61.522;

(iv) An assault in the first, second, third, or fourth degree offense under chapter 9A.36 RCW only if the assault involves domestic violence as defined in RCW 10.99.020;

(v) An escape under chapter 9A.76 RCW; or

((~~(ii) There is reasonable suspicion a person in the vehicle has committed or is committing a~~)) (vi) A driving under the influence offense under RCW 46.61.502;

(b) The pursuit is necessary for the purpose of identifying or apprehending the person;

(c) The person poses ((~~an imminent threat to the safety of~~)) a serious risk of harm to others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances; and

(d)(i) Except as provided in (d)(ii) of this subsection, the ((~~officer has received authorization to engage in the pursuit from~~)) pursuing officer notifies a

supervising officer ((~~and~~)) immediately upon initiating the vehicular pursuit; there is supervisory ((~~control~~)) oversight of the pursuit((~~. The~~)); and the pursuing officer, in consultation with the supervising officer ((~~must consider~~)), considers alternatives to the vehicular pursuit((~~. The supervisor must consider~~)), the justification for the vehicular pursuit and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle((~~, and the vehicular pursuit must be terminated if any of the requirements of this subsection are not met~~));

(ii) For those jurisdictions with fewer than ((~~10~~)) 15 commissioned officers, if a supervisor is not on duty at the time, the pursuing officer ((~~will request~~)) requests the on-call supervisor be notified of the pursuit according to the agency's procedures((~~. The~~)), and the pursuing officer ((~~must consider~~)) considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle. ((~~The officer must terminate the vehicular pursuit if any of the requirements of this subsection are not met.~~))

(2) ((~~A pursuing~~)) In any vehicular pursuit under this section:

(a) The pursuing officer and the supervising officer, if applicable, shall comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit ((~~and comply~~));

(b) The supervising officer, the pursuing officer, or dispatcher shall notify other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit or called upon to assist with the vehicular pursuit, and the pursuing officer and the supervising officer, if applicable, shall comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable;

(c) The pursuing officer must be able to directly communicate with other officers engaging in the pursuit, the supervising officer, if applicable, and the dispatch agency, such as being on a common radio channel or having other direct means of communication;

(d) As soon as practicable after initiating a vehicular pursuit, the pursuing officer, supervising officer, if applicable, or responsible agency shall develop a plan to end the pursuit through the use of available pursuit intervention options, such as the use of the pursuit intervention technique, deployment of spike strips or other tire deflation devices, or other department authorized pursuit intervention tactics; and

(e) The pursuing officer must have completed an emergency vehicle operator's course, must have completed updated emergency vehicle operator training in the previous two years, where applicable, and must be certified in at least one pursuit intervention option. Emergency vehicle operator training must include training on performing the risk assessment analysis described in subsection (1)(c) of this section.

(3) A vehicle pursuit not meeting the requirements under this section must be terminated.

(((~~3~~))) (4) A peace officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon. For the

purposes of this subsection, a vehicle is not considered a deadly weapon unless the operator is using the vehicle as a deadly weapon and no other reasonable means to avoid potential serious harm are immediately available to the officer.

(((~~(4)~~))) (5) For purposes of this section, "vehicular pursuit" means an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 17, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 3, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 236

[Engrossed Substitute House Bill 1033]

COMPOSTABLE PRODUCTS—ADVISORY COMMITTEE

AN ACT Relating to evaluating compostable product usage in Washington; adding a new section to chapter 70A.205 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 70A.205 RCW to read as follows:

(1)(a) Legislation enacted in 2022, chapter 180, Laws of 2022, contains numerous provisions intended to decrease the generation of methane gas in landfills from organic materials, by increasing the diversion of organic materials to compost and other organic materials management facilities. The legislature finds that there is urgency in the state's efforts to ensure that compost streams are limited to compostable organic materials and are not hindered by unsuitable contaminants. At present, organic materials management facilities in Washington vary in the types of feedstocks that are accepted.

(b) The department must contract with an independent third-party facilitator to convene a stakeholder advisory committee. The advisory committee shall make recommendations to the appropriate committees of the legislature on the development of standards for the management of compostable products, especially food service products, by composting and other organic materials management facilities.

(2) In developing recommendations, the stakeholder advisory committee must, at a minimum, consider:

(a) The state's goals of managing organic materials, including food waste, in an environmentally sustainable way that increases food waste diversion and ensures that finished compost is clean and marketable, with the intent of being

consistent with and furthering the improvements identified in chapter 180, Laws of 2022;

(b) The types of compostable products, and amounts if known, sold or distributed into Washington;

(c) Consumer confusion caused by noncompostable products that can lead to contamination issues;

(d) Compostable standards related to the breakdown of products in facilities and home composting;

(e) The status of acceptance of compostable products by organic materials management facilities in Washington, including consideration of organic certifications;

(f) Estimates of the percentage of compostable products used in Washington that are disposed of at organic materials management facilities;

(g) Financial incentives for organic materials management facilities accepting compostable products;

(h) Current laws related to compostable products and the enforcement of these laws;

(i) Any work product from other contemporaneous stakeholder advisory committees currently discussing similar topics in other jurisdictions or nationwide; and

(j) Policy options addressing contamination of organic waste streams and to increase the use of reusable and refillable items.

(3) The facilitator selected in subsection (1) of this section must:

(a) Hire subcontractors, as needed, for the research of any relevant information regarding issues associated with compostable products and the management of compostable materials in composting and other organic materials management facilities;

(b) Provide staff and support to the stakeholder advisory committee meetings; and

(c) Draft reports and other materials for review by the stakeholder advisory committee.

(4) The facilitator shall submit a report to the legislature by September 15, 2024, containing the recommendations of the stakeholder advisory committee after review and approval by the facilitator and committee. The department and its hired facilitator must convene the first stakeholder meeting by September 15, 2023, and must convene meetings at least monthly thereafter through January, on a schedule developed in consultation with the stakeholders serving on the advisory committee. All meetings of the stakeholder advisory committee must be held in a virtual format. The stakeholder advisory committee shall make recommendations using consensus-based decision making. The report must include recommendations where general stakeholder consensus has been achieved and note dissenting opinions where stakeholder consensus has not been achieved.

(5) The department must select at least one member to the stakeholder advisory committee from each of the following:

(a) Cities, including both small and large cities and cities located in urban and rural counties, which may be represented by an association that represents cities in Washington;

(b) Counties, including both small and large counties and urban and rural counties, which may be represented by an association that represents county solid waste managers in Washington;

(c) Municipal collectors or companies that provide curbside organic materials management services under a municipal contract under RCW 35.21.120;

(d) A solid waste collection company regulated under chapter 81.77 RCW that provides curbside organic materials collection services;

(e) Three organic materials management facility operators, including at least one operator of a facility that does not currently accept compostable food service products and one operator of a facility that does currently accept such products;

(f) A representative from an environmental nonprofit organization that specializes in waste and recycling issues;

(g) Two manufacturers of compostable products, including at least one manufacturer of compostable food service products and one manufacturer of compostable plastic food service products;

(h) One distributor of compostable food service products;

(i) A statewide general business trade association;

(j) A representative from a retail grocery association;

(k) Two organizations that act as third-party certifiers of compostable products;

(l) The department of agriculture;

(m) Two associations focused on organic materials recycling or composting; and

(n) A statewide organization representing hospitality businesses.

(6) In addition to the members selected under subsection (5) of this section, the director must invite participation on the stakeholder advisory committee from any federally recognized Indian tribe that expresses interest in participation to the department prior to September 1, 2023.

(7) This section expires July 1, 2028.

Passed by the House April 14, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 237

[House Bill 1049]

BOARDS OF COUNTY COMMISSIONERS—EXPANSION—TIMELINE FOR DISTRICT BOUNDARIES

AN ACT Relating to updating timelines for adopting county commissioner district boundaries following expansion from three to five commissioners; and amending RCW 36.32.0552.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.32.0552 and 1990 c 252 s 3 are each amended to read as follows:

If the ballot proposition receives majority voter approval, the size of the board of county commissioners shall be increased to five members as provided in this section.

The two newly created positions shall be filled at elections to be held in the next year. The county shall, as provided in this section, be divided into five commissioner districts, so that each district shall comprise as nearly as possible one-fifth of the population of the county. No two members of the existing board of county commissioners may, at the time of the designation of such districts, permanently reside in one of the five districts. The division of the county into five districts shall be accomplished as follows:

(1) The board of county commissioners shall, by the ((~~second Monday of March~~)) 90th day prior to the first day of the filing period described in RCW 29A.24.050 of the year following the election, adopt a resolution creating the districts;

(2) If by the ((~~second Tuesday of March~~)) 89th day prior to the first day of the filing period described in RCW 29A.24.050 of the year following the election the board of county commissioners has failed to create the districts, the prosecuting attorney of the county shall petition the superior court of the county to appoint a referee to designate the five commissioner districts. The referee shall designate such districts by no later than ((~~June 1st~~)) the 60th day prior to the first day of the filing period described in RCW 29A.24.050 of the year following the election. The two commissioner districts within which no existing member of the board of county commissioners permanently resides shall be designated as districts four and five.

Passed by the House April 13, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 238

[Engrossed House Bill 1086]

LOCAL GOVERNMENT CONTRACTING—COMMUNITY SERVICE ORGANIZATIONS

AN ACT Relating to increasing local governments' ability to contract with community service organizations; amending RCW 35.21.278; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that office of financial management forecasts are showing state population growth of more than 2.2 million people by the year 2050. In the face of this dramatic growth, the legislature finds that it is more important than ever to help preserve, maintain, and enhance local parks, trails, and open spaces that are key contributors to the state's quality of life.

The legislature further finds that local parks and recreation agencies confronted with this growth are still dealing with severe budget impacts brought on by the COVID-19 pandemic and facing a pending economic slowdown, even as the utilization of parks, open spaces, and trails has spiked up dramatically.

The legislature finds that local parks agencies desperately need additional funding and tools to address the significant growth in use and to better empower nonprofit and service organizations to make a positive impact in their communities.

The legislature finds that community service organizations can help local agencies bring people together in a way that fosters an ethic of service, builds cohesion among residents, and provides more free and accessible outdoor recreation opportunities, particularly in underserved communities.

The legislature finds that increased use of volunteers, and agreements with community service organizations, can help smaller agencies stretch local dollars further and take on bigger projects than they otherwise would be able to.

The legislature finds that one way to incentivize these types of agreements with community service organizations is by modernizing the state laws around contracting with such organizations, which have not been updated since 1988.

The legislature further finds that years of inflation and growth should be taken into account in updating these state laws, which currently restrict many local agencies to a $25,000 per year limit for all community service organization contracts.

Therefore, it is the intent of the legislature to modernize the state laws around contracting with community service organizations in a manner that accounts for three and a half decades of growth and inflationary costs, so that local parks agencies can operate with more reasonable and up-to-date limits that are in keeping with today's budget and cost realities. Doing so will provide local agencies one additional tool to address maintenance backlogs, preserve quality open spaces, and better serve communities experiencing inequities and lacking access to parks and recreation facilities and programs that support healthy living. The legislature therefore intends to increase the dollar limit from $25,000 to $75,000 for smaller agencies. It is the intent of the legislature that this limit apply annually to all contracts entered into by an agency under RCW 35.21.278 in any one year, and that this limit not be interpreted to apply on a per contract basis so as to allow any number of individual contracts of up to $75,000.

It is the intent of the legislature that this authority be used to provide additional opportunities for public service organizations to meaningfully participate in the betterment of their community, rather than as a way for local agencies to advantage nonprofits over other businesses in public contracting.

Sec. 2. RCW 35.21.278 and 2019 c 352 s 7 are each amended to read as follows:

(1) Without regard to competitive bidding laws for public works, a county, city, town, school district, metropolitan park district, park and recreation district, port district, or park and recreation service area may contract with a chamber of commerce, a service organization, a community, youth, or athletic association, or other similar association located and providing service in the immediate neighborhood, for drawing design plans, making improvements to a park, school playground, public square, other public spaces, or port habitat site, installing equipment or artworks, or providing maintenance services for such a project, or for a facility or facilities as a community or neighborhood project, or for an environmental justice stewardship or sustainability project, and may reimburse the contracting association its expense. The contracting association may use volunteers to whom no wage or salary compensation is paid in the project and provide the volunteers with clothing or tools; meals or refreshments; accident/injury insurance coverage; and reimbursement of their expenses. The consideration to be received by the public entity through the value of the improvements, artworks, equipment, or maintenance shall have a value at least

equal to ((~~three~~)) two times that of the payment to the contracting association. All payments made by a public entity under the authority of this section for all such contracts in any one year shall not exceed ((~~twenty-five thousand dollars~~)) $75,000 or two dollars per resident within the boundaries of the public entity, whichever is greater.

(2) A county, city, town, school district, metropolitan park district, park and recreation district, or park and recreation service area may ratify an agreement, which qualifies under subsection (1) of this section and was made before June 9, 1988.

(3) Without regard to competitive bidding laws for public works, a school district, institution of higher education, or other governmental entity that includes training programs for students may contract with a community service organization, nonprofit organization, or other similar entity, to build tiny houses for low-income housing, if the students participating in the building of the tiny houses are in:

(a) Training in a community and technical college construction or construction management program;

(b) A career and technical education program;

(c) A state-recognized apprenticeship preparation program; or

(d) Training under a construction career exploration program for high school students administered by a nonprofit organization.

Passed by the House April 17, 2023.

Passed by the Senate April 7, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 239

[Second Substitute House Bill 1322]

WALLA WALLA WATER 2050 PLAN

AN ACT Relating to the Walla Walla water 2050 plan; amending RCW 90.90.020; and adding a new section to chapter 90.90 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 90.90.020 and 2011 c 83 s 4 are each amended to read as follows:

(1)(a) Water supplies secured through the development of new storage facilities made possible with funding from the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, and the Columbia river basin water supply revenue recovery account shall be allocated as follows:

(i) Two-thirds of active storage shall be available for appropriation for out-of-stream uses; and

(ii) One-third of active storage shall be available to augment instream flows and shall be managed by the department of ecology. The timing of releases of this water shall be determined by the department of ecology, in cooperation with the department of fish and wildlife and fisheries comanagers, to maximize benefits to salmon and steelhead populations.

(b) Water available for appropriation under (a)(i) of this subsection but not yet appropriated shall be temporarily available to augment instream flows to the extent that it does not impair existing water rights.

(2) Water developed under the provisions of this section to offset out-of-stream uses and for instream flows is deemed adequate mitigation for the issuance of new water rights provided for in subsection (1)(a) of this section and satisfies all consultation requirements under state law related to the issuance of new water rights.

(3) The department of ecology shall focus its efforts to develop water supplies for the Columbia river basin on the following needs:

(a) Alternatives to groundwater for agricultural users in the Odessa subarea aquifer;

(b) Sources of water supply for pending water right applications;

(c) A new uninterruptible supply of water for the holders of interruptible water rights on the Columbia river mainstem that are subject to instream flows or other mitigation conditions to protect streamflows; and

(d) New municipal, domestic, industrial, and irrigation water needs within the Columbia river basin.

(4) The one-third/two-thirds allocation of water resources between instream and out-of-stream uses established in this section does not apply to ((~~applications~~)):

(a) Applications for changes or transfers of existing water rights in the Columbia river basin; or

(b) Applications for water rights in the Walla Walla river basin implementing the Walla Walla water 2050 plan adopted June 30, 2021.

NEW SECTION. **Sec. 2.** A new section is added to chapter 90.90 RCW to read as follows:

(1) The Walla Walla water 2050 plan must be used as an integrated water resource strategy, through a coordinated effort between the states of Washington and Oregon, affected federally recognized tribes, affected federal, state, and local agencies, and agricultural, environmental, business, and other community stakeholders.

(2) In developing water supply solutions in the Walla Walla river basin, the department of ecology should employ an integrated water resource management strategy that will provide concurrent water supply benefits to both instream and out-of-stream uses and address a variety of water resource and ecosystem challenges affecting fish passage, habitat functions, and agricultural, municipal, industrial, and domestic water supply, consistent with the Walla Walla water 2050 plan.

(3) The department of ecology shall consider any increase in the quantity of water supply due to a project being implemented under the Walla Walla water 2050 plan that is completed after the effective date of this section to be water supply developed under this section.

(4) In implementing subsection (2) of this section, the department of ecology will be advised by the Walla Walla basin advisory committee, including representatives from a broad range of interests, including agricultural, environmental, and other stakeholders, and tribal, local, state, and federal governments.

(5) In consultation with affected federally recognized tribes, the department of ecology shall evaluate the development of a bistate legal regulatory framework for allocation of developed water resources, in collaboration with the state of Oregon.

(6) The department of ecology shall submit a report to the relevant committees of the legislature by June 30, 2025, with a recommendation for the bistate legal regulatory framework necessary for equitable allocation and management of developed water resources from the build out of water supply projects envisioned in the Walla Walla water 2050 plan.

(7) Subject to the availability of amounts appropriated for this specific purpose, the department of ecology is authorized to fund the development, construction, and implementation of projects to implement the Walla Walla water 2050 plan that may be located outside of the state, provided that the projects benefit instream and out-of-stream water demands in the state.

(8) Water supplies developed under this section must be apportioned between the states consistent with any written agreements entered into with the state of Oregon and the confederated tribes of the Umatilla Indian reservation related to the management of water in the Walla Walla river basin.

(9) The department of ecology has the authority to designate water supplies developed under this section for instream flow purposes and placed into the trust water rights program authorized under chapter 90.42 RCW. Water supplies developed under this section that are designated for instream flow purposes are unavailable to satisfy existing water rights, including water rights with superior priority, and are exempt from provisions under RCW 90.42.070.

(10) Water supplies developed under this section must be managed consistent with the intent of the specific project being implemented.

(11) It is the intent of the legislature for the state to share in the cost to implement the Walla Walla water 2050 plan authorized under this section, subject to the availability of amounts appropriated for this specific purpose, with at least one-half of the total costs to finance the implementation of the Walla Walla water 2050 plan funded through federal, private, and other nonstate sources, including private funding sources from entities that benefit from projects. This section applies to the total costs of the Walla Walla water 2050 plan and not to individual projects within the plan and includes funding for projects that have been completed prior to the effective date of this section.

(12) Nothing in this section prevents the department of ecology from regulating water users consistent with existing adjudications to ensure that water use by holders of adjudicated surface water right certificates are not impaired by use under junior groundwater right certificates, claims, and permits.

Passed by the House March 2, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 240

[Engrossed Substitute House Bill 1106]

UNEMPLOYMENT INSURANCE—DISQUALIFICATION FOR VOLUNTARY SEPARATION—GOOD CAUSE EXCEPTIONS

AN ACT Relating to qualifications for unemployment insurance when an individual voluntarily leaves work; amending RCW 50.20.050 and 50.29.021; adding a new section to chapter 50.04 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 50.04 RCW to read as follows:

"Vulnerable adult" has the same meaning as in RCW 74.34.020.

Sec. 2. RCW 50.20.050 and 2022 c 268 s 42 are each amended to read as follows:

(1) With respect to separations that occur on or after September 6, 2009, and for separations that occur before April 4, 2021:

(a) A claimant shall be disqualified from benefits beginning with the first day of the calendar week in which the claimant left work voluntarily without good cause and thereafter for seven calendar weeks and until the claimant obtains bona fide work in employment covered by this title and earned wages in that employment equal to seven times the claimant's weekly benefit amount. Good cause reasons to leave work are limited to reasons listed in (b) of this subsection.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the claimant's training and experience.

(b) A claimant has good cause and is not disqualified from benefits under (a) of this subsection only under the following circumstances:

(i) The claimant has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve the claimant's employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated the claimant's employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii) The claimant: (A) Left work to relocate for the employment of a spouse or domestic partner that is outside the existing labor market area; and (B) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 7.105.010, or stalking, as defined in RCW 9A.46.110;

(v) The claimant's usual compensation was reduced by twenty-five percent or more;

(vi) The claimant's usual hours were reduced by twenty-five percent or more;

(vii) The claimant's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the claimant's job classification and labor market;

(viii) The claimant's worksite safety deteriorated, the claimant reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The claimant left work because of illegal activities in the claimant's worksite, the claimant reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The claimant's usual work was changed to work that violates the claimant's religious convictions or sincere moral beliefs; or

(xi) The claimant left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the claimant begins active participation in the apprenticeship program.

(2) With respect to separations that occur on or after April 4, 2021:

(a) A claimant shall be disqualified from benefits beginning with the first day of the calendar week in which the claimant has left work voluntarily without good cause and thereafter for seven calendar weeks and until the claimant has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times the claimant's weekly benefit amount. Good cause reasons to leave work are limited to reasons listed in (b) of this subsection.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the claimant's training and experience.

(b) A claimant has good cause and is not disqualified from benefits under (a) of this subsection only under the following circumstances:

(i) The claimant has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because ((~~of the~~)); Of the illness or disability of the claimant ((~~or~~)); of the death, illness, or disability of a member of the claimant's immediate family ((~~if~~)) for separations that occur before

September 3, 2023; of the death, illness, or disability of a family member for separations that occur on or after September 3, 2023; or the care for a child or a vulnerable adult in the claimant's care is inaccessible for separations that occur on or after July 7, 2024, and before July 8, 2029. However, to qualify based on a circumstance in this subsection (2)(b)(ii), the following requirements must be met:

(A) The claimant made reasonable efforts to preserve the claimant's employment status by requesting ((~~a leave of absence, by having promptly notified~~)) changes in working conditions or work schedule that would accommodate the death, illness, disability, or caregiving inaccessibility, or by requesting a leave of absence, promptly notifying the employer of the reason for the absence, and ((~~by having promptly requested~~)) promptly requesting reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated the claimant's employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii) The claimant: (A) Left work to relocate for the employment of a spouse or domestic partner that is outside the existing labor market area; and (B) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 7.105.010, or stalking, as defined in RCW 9A.46.110;

(v) The claimant's usual compensation was reduced by twenty-five percent or more;

(vi) The claimant's usual hours were reduced by twenty-five percent or more;

(vii) The claimant's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The claimant's worksite safety deteriorated, the claimant reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The claimant left work because of illegal activities in the claimant's worksite, the claimant reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The claimant's usual work was changed to work that violates the claimant's religious convictions or sincere moral beliefs;

(xi) The claimant left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the claimant begins active participation in the apprenticeship program; ((~~or~~))

(xii) During a public health emergency:

(A) The claimant was unable to perform the claimant's work for the employer from the claimant's home;

(B) The claimant is able to perform, available to perform, and can actively seek suitable work which can be performed for an employer from the claimant's home; and

(C) The claimant or another individual residing with the claimant is at higher risk of severe illness or death from the disease that is the subject of the public health emergency because the higher risk individual:

(I) Was in an age category that is defined as high risk for the disease that is the subject of the public health emergency by the federal centers for disease control and prevention, the department of health, or the equivalent agency in the state where the individual resides; or

(II) Has an underlying health condition, verified as required by the department by rule, that is identified as a risk factor for the disease that is the subject of the public health emergency by the federal centers for disease control and prevention, the department of health, or the equivalent agency in the state where the individual resides;

(xiii) For separations that occur on or after July 7, 2024, the claimant: (A) Left work to relocate in order to follow a minor child who moved outside of the claimant's labor market; (B) remained employed as long as was reasonable prior to relocating; and (C) had parental rights over the minor child at the time of the job separation; or

(xiv) For separations that occur on or after July 7, 2024, the claimant had a regularly scheduled shift or split shift start or end time for the prior 90 calendar days, and the employer, without request by the claimant and not based on a system of seniority, changed the regularly scheduled shift or split shift start or end time by six or more hours for that shift on a nontemporary basis.

(3) With respect to claims that occur on or after July 4, 2021, a claimant has good cause and is not disqualified from benefits under subsection (2)(a) of this section under the following circumstances, in addition to those listed under subsection (2)(b) of this section, if, during a public health emergency, the claimant worked at a health care facility as defined in RCW 9A.50.010, was directly involved in the delivery of health services, and left work for the period of quarantine consistent with the recommended guidance from the United States centers for disease control and prevention or subject to the direction of the state or local health jurisdiction because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency.

(4) Notwithstanding subsection (1) of this section, a claimant who was simultaneously employed in full-time employment and part-time employment and is otherwise eligible for benefits from the loss of the full-time employment shall not be disqualified from benefits because the claimant:

(a) Voluntarily quit the part-time employment before the loss of the full-time employment; and

(b) Did not have prior knowledge that the claimant would be separated from full-time employment.

Sec. 3. RCW 50.29.021 and 2021 c 251 s 4 are each amended to read as follows:

(1)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW

50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:

(i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work;

(ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through (x); or

(iii) During a public health emergency, the claimant worked at a health care facility as defined in RCW 9A.50.010, was directly involved in the delivery of health services, and was terminated from work due to entering quarantine because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency.

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer, except as provided in subsection (4) of this section.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050(1)(b) (iv) or (xi), (2)(b)(ii), only for separation that was necessary because the care for a child or a vulnerable adult in the claimant's care is inaccessible, (iv), (xi), ((~~or~~)) (xii), or (xiii), or (3), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

(f) Benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the

total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection (2)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

(g) Upon approval of an individual's training benefits plan submitted in accordance with RCW 50.22.155(2), an individual is considered enrolled in training, and regular benefits beginning with the week of approval shall not be charged to the experience rating account of any contribution paying employer.

(h) Training benefits paid to an individual under RCW 50.22.155 shall not be charged to the experience rating account of any contribution paying employer.

(i)(i) Benefits paid during the one week waiting period when the one week waiting period is fully paid or fully reimbursed by the federal government shall not be charged to the experience rating account of any contribution paying employer.

(ii) In the event the one week waiting period is partially paid or partially reimbursed by the federal government, the department may, by rule, elect to not charge, in full or in part, benefits paid during the one week waiting period to the experience rating account of any contribution paying employer.

(j) Benefits paid for all weeks starting with the week ending March 28, 2020, and ending with the week ending May 30, 2020, shall not be charged to the experience rating account of any contribution paying employer.

(3)(a) A contribution paying base year employer, except employers as provided in subsection (5) of this section, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster, or to the presence of any dangerous, contagious, or infectious disease that is the subject of a public health emergency at the employer's plant, building, worksite, or other facility;

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(v) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who qualified for two consecutive unemployment claims where wages were attributable to at least one employer who employed the individual in both base years. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(vi) Was hired to replace an employee who is a member of the military reserves or National Guard and was called to federal active military service by the president of the United States and is subsequently laid off when that employee is reemployed by their employer upon release from active duty within the time provided for reemployment in RCW 73.16.035;

(vii) Worked for an employer for 20 weeks or less, and was laid off at the end of temporary employment when that employee temporarily replaced a permanent employee receiving family or medical leave benefits under Title 50A RCW, and the layoff is due to the return of that permanent employee. This subsection (3)(a)(vii) applies to claims with an effective date on or after January 1, 2020; or

(viii) Was discharged because the individual was unable to satisfy a job prerequisite required by law or administrative rule.

(b) The employer requesting relief of charges under this subsection must request relief in writing within ((~~thirty~~)) 30 days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

(4) When a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

(5) An employer's experience rating account may not be relieved of charges for a benefit payment and an employer who reimburses the trust fund for benefit payments may not be credited for a benefit payment if a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure and the employer or employer's agent has a pattern of such failures. The commissioner has the authority to determine whether the employer has good cause under this subsection.

(a) For the purposes of this subsection, "adequately" means providing accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

(b)(i) For the purposes of this subsection, "pattern" means a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to a claim or claims without establishing good cause for the failure, if the greater of the following calculations for an employer is met:

(A) At least three times in the previous two years; or

(B) Twenty percent of the total current claims against the employer.

(ii) If an employer's agent is utilized, a pattern is established based on each individual client employer that the employer's agent represents.

NEW SECTION. **Sec. 4.** By November 1, 2028, and in compliance with RCW 43.01.036, the employment security department must submit a report to the legislature that details the number of unemployment insurance benefit claims, the impact on the trust fund and employer experience ratings, and any trends for utilization by industries for claims allowed for separations on or after July 7, 2024, and before July 2, 2028, which were necessary because care for a child or a vulnerable adult in the claimant's care was inaccessible as provided in RCW 50.02.050.

NEW SECTION. **Sec. 5.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

Passed by the House April 13, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 241

[House Bill 1114]

SENTENCING GUIDELINES COMMISSION—MEMBERSHIP

AN ACT Relating to the membership of the sentencing guidelines commission; and amending RCW 9.94A.860.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.860 and 2016 c 179 s 3 are each amended to read as follows:

(1) The sentencing guidelines commission is hereby created, located within the office of financial management. Except as provided in RCW 9.94A.875, the commission shall serve to advise the governor and the legislature as necessary on issues relating to adult and juvenile sentencing. The commission may meet, as necessary, to accomplish these purposes within funds appropriated.

(2) The commission consists of ((~~twenty~~)) 25 voting members, one of whom the governor shall designate as ((~~chairperson~~)) chair. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, or his or her designee, subject to confirmation by the senate.

(3) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management or designee, as an ex officio member;

(c) The chair of the indeterminate sentence review board, as an ex officio member;

(d) The head of the state agency, or the agency head's designee, having responsibility for juvenile corrections programs, as an ex officio member;

(e) Two prosecuting attorneys;

(f) Two attorneys with particular expertise in defense work;

(g) Four persons who are superior court judges;

(h) One person who is the chief law enforcement officer of a county or city;

(i) ((~~Four~~)) Five members of the public who are not prosecutors, defense attorneys, judges, or law enforcement officers, one of whom is a victim of crime, one of whom is a victim of crime or a crime victims' advocate, and one of whom has been formerly incarcerated in the state correctional system;

(j) One person who is an elected official of a county government, other than a prosecuting attorney or sheriff;

(k) One person who is an elected official of a city government;

(l) One person who is an administrator of juvenile court services;

(m) The chair of the state supreme court minority and justice commission or designee, as an ex officio member;

(n) One person representing the interests of tribes;

(o) One behavioral health professional with experience working in the criminal justice system; and

(p) One person with knowledge of and expertise in academic research in the field of criminology or sociology.

In making the appointments, the governor shall endeavor to assure that the commission membership includes adequate representation and expertise relating to both the adult criminal justice system and the juvenile justice system. In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the defense attorney members, of the superior court judges' association in respect to the members who are judges, of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer, of the Washington state association of counties in respect to the member who is a county official, of the association of Washington cities in respect to the member who is a city official, of the office of crime victims advocacy and other organizations of crime victims in respect to the member who is a victim of crime or a crime victims' advocate, ((~~and~~)) of the Washington association of juvenile court administrators in respect to the member who is an administrator of juvenile court services, and of the Washington state institute for public policy and the relevant departments of the Washington State University and University of Washington in respect to the member with knowledge of and expertise in academic research in the field of criminology or sociology.

(4)(a) ((~~All~~)) Except as provided in (b) of this subsection, all voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed.

(b) The governor shall stagger the initial terms of the members appointed under subsection (3)(((~~(j), (k), and (l)~~))) (n), (o), and (p) of this section by appointing one of them for a term of one year, one of them for a term of two years, and one of them for a term of three years.

(5) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from

each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(6) The members of the commission may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members may be reimbursed by their respective houses as provided under RCW 44.04.120. Except for the reimbursement of travel expenses, members shall not be compensated.

Passed by the House April 13, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 242

[Substitute House Bill 1207]
SCHOOL DISTRICTS—HARASSMENT, INTIMIDATION, BULLYING, AND DISCRIMINATION

AN ACT Relating to preventing and responding to harassment, intimidation, bullying, and discrimination in schools by requiring distribution of related policies and complaint procedures, designation of a primary contact for compliance with nondiscrimination laws, and changing a prejudicial student discipline term; amending RCW 28A.640.020, 28A.600.477, 28A.642.080, 28A.600.510, 28A.300.042, and 28A.600.015; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.642 RCW; and adding a new section to chapter 28A.600 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall develop, and periodically update, model student handbook language that includes information about policies and complaint procedures related to discrimination, including sexual harassment and addressing transgender students, and information about policies and complaint procedures related to harassment, intimidation, and bullying, as well as the overlap between the policies and complaint procedures. The model student handbook language must also include a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds. The model student handbook language must be aligned with existing requirements in state law including chapters 28A.640 and 28A.642 RCW and RCW 28A.600.477 and 28A.600.510. The model student handbook language must be jointly developed with the Washington state school directors' association, and in consultation with the office of the education ombuds. The model student handbook language must be posted publicly on the office of the superintendent of public instruction's website beginning July 1, 2024.

(2) Beginning with the 2024-25 school year, each school district must include the model student handbook language developed under subsection (1) of this section in any student, parent, employee, and volunteer handbook that it or one of its schools publishes and on the school district's website, and any school's website, if a school or the school district maintains a website. If a school district neither publishes a handbook nor maintains a website, it must provide the model

student handbook language developed under subsection (1) of this section to each student, parent, employee, and volunteer at least annually.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.642 RCW to read as follows:

(1) Each school district shall designate one person in the school district as the primary contact regarding school district compliance with this chapter. In addition to any other duties required by law and the school district, the primary contact must:

(a) Ensure that complaints of discrimination communicated to the school district are promptly investigated and resolved; and

(b) Communicate with the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477, and the primary contact regarding the school district's policies and procedures related to transgender students under RCW 28A.642.080.

(2) The primary contact may also serve as the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477 and the primary contact regarding the school district's policy and procedure related to transgender students under RCW 28A.642.080.

Sec. 3. RCW 28A.640.020 and 1994 c 213 s 1 are each amended to read as follows:

(1) The superintendent of public instruction shall develop regulations and guidelines to eliminate sex discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

(a) Specifically with respect to public school employment, all schools shall be required to:

(i) Maintain credential requirements for all personnel without regard to sex;

(ii) Make no differentiation in pay scale on the basis of sex;

(iii) Assign school duties without regard to sex except where such assignment would involve duty in areas or situations, such as but not limited to a shower room, where persons might be disrobed;

(iv) Provide the same opportunities for advancement to males and females; and

(v) Make no difference in conditions of employment including, but not limited to, hiring practices, leaves of absence, hours of employment, and assignment of, or pay for, instructional and noninstructional duties, on the basis of sex.

(b) Specifically with respect to counseling and guidance services for students, they shall be made available to all students equally. All certificated personnel shall be required to stress access to all career and vocational opportunities to students without regard to sex.

(c) Specifically with respect to recreational and athletic activities, they shall be offered to all students without regard to sex. Schools may provide separate teams for each sex. Schools which provide the following shall do so with no disparities based on sex: Equipment and supplies; medical care; services and

insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity and awards; scheduling of games and practice times including use of courts, gyms, and pools: PROVIDED, That such scheduling of games and practice times shall be determined by local administrative authorities after consideration of the public and student interest in attending and participating in various recreational and athletic activities. Each school which provides showers, toilets, or training room facilities for athletic purposes shall provide comparable facilities for both sexes. Such facilities may be provided either as separate facilities or shall be scheduled and used separately by each sex.

The superintendent of public instruction shall also be required to develop a student survey to distribute every three years to each local school district in the state to determine student interest for male/female participation in specific sports.

(d) Specifically with respect to course offerings, all classes shall be required to be available to all students without regard to sex: PROVIDED, That separation is permitted within any class during sessions on sex education or gym classes.

(e) Specifically with respect to textbooks and instructional materials, which shall also include, but not be limited to, reference books and audiovisual materials, they shall be required to adhere to the guidelines developed by the superintendent of public instruction to implement the intent of this chapter: PROVIDED, That this subsection shall not be construed to prohibit the introduction of material deemed appropriate by the instructor for educational purposes.

(2)(a) By December 31, 1994, the superintendent of public instruction shall develop criteria for use by school districts in developing sexual harassment policies as required under (b) of this subsection. The criteria shall address the subjects of grievance procedures, remedies to victims of sexual harassment, disciplinary actions against violators of the policy, and other subjects at the discretion of the superintendent of public instruction. Disciplinary actions must conform with collective bargaining agreements and state and federal laws. The superintendent of public instruction also shall supply sample policies to school districts upon request.

(b) By June 30, 1995, every school district shall adopt and implement a written policy concerning sexual harassment. The policy shall apply to all school district employees, volunteers, parents, and students, including, but not limited to, conduct between students.

(c) School district policies on sexual harassment shall be reviewed by the superintendent of public instruction considering the criteria established under (a) of this subsection as part of the monitoring process established in RCW 28A.640.030.

(d) The school district's sexual harassment policy shall be conspicuously posted throughout each school building, and provided to each employee. A copy of the policy shall appear in any publication of the school or school district setting forth the rules, regulations, procedures, and standards of conduct for the school or school district. This requirement as it relates to students, parents, and

guardians may be satisfied by using the model student handbook language in section 1 of this act.

(e) Each school shall develop a process for discussing the district's sexual harassment policy. The process shall ensure the discussion addresses the definition of sexual harassment and issues covered in the sexual harassment policy.

(f) "Sexual harassment" as used in this section means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature if:

(i) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education or employment;

(ii) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education or employment; or

(iii) That conduct or communication has the purpose or effect of substantially interfering with an individual's educational or work performance, or of creating an intimidating, hostile, or offensive educational or work environment.

Sec. 4. RCW 28A.600.477 and 2019 c 194 s 1 are each amended to read as follows:

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary a policy and procedure prohibiting harassment, intimidation, and bullying of any student and that, at a minimum, incorporates the model policy and procedure described in subsection (3) of this section.

(b) School districts must share the policy and procedure prohibiting harassment, intimidation, and bullying with parents or guardians, students, volunteers, and school employees in accordance with the rules adopted by the office of the superintendent of public instruction. This requirement as it relates to students, parents, and guardians may be satisfied by using the model student handbook language in section 1 of this act.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying. In addition to other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policy and procedure prohibiting harassment, intimidation, and bullying;

(B) Receive copies of all formal and informal complaints relating to harassment, intimidation, or bullying;

(C) Communicate with the school district employees responsible for monitoring school district compliance with chapter 28A.642 RCW prohibiting discrimination in public schools, and the primary contact regarding the school district's policies and procedures related to transgender students under RCW 28A.642.080; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on the policy and procedure prohibiting harassment, intimidation, and bullying.

(ii) The primary contact from each school district must attend at least one training class as provided in subsection (4) of this section, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policies and procedures relating to transgender students under RCW 28A.642.080 and the primary contact regarding school district compliance with nondiscrimination laws under section 1 of this act.

(2) School districts are encouraged to adopt and update the policy and procedure prohibiting harassment, intimidation, and bullying through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model policy and procedure prohibiting harassment, intimidation, and bullying.

(b) Each school district must provide to the office of the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials prohibiting harassment, intimidation, and bullying to be posted on the office of the superintendent of public instruction's school safety center website, and must also provide the office of the superintendent of public instruction with a link to the school district's website for further information. The school district's primary contact for harassment, intimidation, and bullying issues must annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(c) The office of the superintendent of public instruction must publish on its website, with a link to the school safety center website, the revised and updated model policy and procedure prohibiting harassment, intimidation, and bullying, along with training and instructional materials on the components that must be included in any school district policy and procedure prohibiting harassment, intimidation, and bullying. By September 1, 2019, the office of the superintendent of public instruction must adopt rules regarding school districts' communication of the policy and procedure prohibiting harassment, intimidation, and bullying to parents, students, employees, and volunteers.

(4) By December 31, 2020, the office of the superintendent of public instruction must develop a statewide training class for those people in each school district who act as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (1) of this section. The training class must be offered on an annual basis by educational service districts in collaboration with the office of the superintendent of public instruction. The training class must be based on the model policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (3) of this section and include materials related to hazing and the Washington state school directors' association model transgender student policy and procedure as provided in RCW 28A.642.080.

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

(a) "Electronic" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

(b)(i) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act including, but not limited to, one shown to be motivated by any characteristic in RCW 28A.640.010 and 28A.642.010, or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(A) Physically harms a student or damages the student's property;

(B) Has the effect of substantially interfering with a student's education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

(ii) Nothing in (b)(i) of this subsection requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

Sec. 5. RCW 28A.642.080 and 2019 c 194 s 2 are each amended to read as follows:

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedure described in subsection (3) of this section.

(b) School districts must share the policies and procedures that meet the requirements of (a) of this subsection with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the office of the superintendent of public instruction. This requirement as it relates to students, parents, and guardians may be satisfied by using the model student handbook language in section 1 of this act.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection. In addition to any other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection;

(B) Receive copies of all formal and informal complaints relating to transgender students;

(C) Communicate with the school district employees responsible for monitoring school district compliance with this chapter, and the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on policies and procedures relating to transgender students that meet the requirements of (a) of this subsection.

(ii) The primary contact from each school district must attend at least one training class as provided in RCW 28A.600.477, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation,

and bullying under RCW 28A.600.477 and the primary contact regarding school district compliance with nondiscrimination laws under section 1 of this act.

(2) As required by the office of the superintendent of public instruction, each school district must provide to the office of the superintendent of public instruction its policies and procedures relating to transgender students that meet the requirements of subsection (1)(a) of this section.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model transgender student policy and procedure.

(b) The elements of the model transgender student policy and procedure must, at a minimum: Incorporate the office of the superintendent of public instruction's rules and guidelines developed under RCW 28A.642.020 to eliminate discrimination in Washington public schools on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying, required under RCW 28A.600.477, to transgender students.

(c) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedure on each agency's website at no cost to school districts.

(4)(a) By December 31, 2020, the office of the superintendent of public instruction must develop online training material available to all school staff based on the model transgender student policy and procedure described in subsection (3) of this section and the office of the superintendent of public instruction's rules and guidance as provided under this chapter.

(b) The online training material must describe the role of school district primary contacts for monitoring school district compliance with this chapter prohibiting discrimination in public schools, RCW 28A.600.477 related to the policies and procedures prohibiting harassment, intimidation, and bullying, and this section related to policies and procedures relating to transgender students.

(c) The online training material must include best practices for policy and procedure implementation and cultural change that are guided by school district experiences.

(d) The office of the superintendent of public instruction must annually notify school districts of the availability of the online training material.

Sec. 6. RCW 28A.600.510 and 2022 c 222 s 2 are each amended to read as follows:

(1) Beginning August 1, 2023, public schools must:

(a) Provide students and their parents or guardians with a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds at the time of initial enrollment or admission; and

(b) Either: (i) Include on their website a description of the services available through the office of the education ombuds and a link to the website of the office of the education ombuds; or (ii) provide a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds in existing materials that are shared annually with families, students, and school employees, such as welcome packets,

orientation guides, and newsletters. This requirement as it relates to students and families may be satisfied by using the model student handbook language in section 1 of this act.

(2) Public schools are encouraged to comply with both subsection (1)(b)(i) and (ii) of this section.

(3) By July 1, 2022, the office of the education ombuds must develop a template of the information described in subsection (1) of this section. The template must be translated into Spanish and into other languages as resources allow. The template must be made available upon request and updated as needed.

(4) For the purposes of this section, "public schools" has the same meaning as in RCW 28A.150.010.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) The legislature recognizes that public schools have the authority to immediately remove a student from school if the student poses an immediate and continuing danger to other students or to school staff, or if the student poses an immediate and continuing threat of material and substantial disruption of the education process. The legislature acknowledges that emergency expulsion is limited to 10 consecutive school days, the school must provide an opportunity for the student to receive educational services during the emergency expulsion, and both the emergency expulsion and any suspension or expulsion that the emergency expulsion is converted to can be appealed. However, the legislature finds that emergency expulsion tarnishes a student's reputation and self-image, which can result in school staff, fellow students, or the student's families making assumptions about the student, and, in some cases, these assumptions result in harassment, intimidation, or bullying of the student. Therefore, the legislature intends to discontinue the use of the prejudicial term "emergency expulsion," and replace it with the term "emergency removal," which is a more accurate description of the temporary removal of a student from school to assess and properly respond to an emergent situation involving the student.

(2) As soon as possible after the effective date of this section, the office of the superintendent of public instruction must publish a bulletin to notify school districts and public schools that the term "emergency removal" must be used instead of the term "emergency expulsion" in the context of student discipline and as required by RCW 28A.300.042 and 28A.600.015. The legislature's intent as described in subsection (1) of this section must be included in the bulletin. The bulletin must also include guidance about student discipline data collection and historical data comparison.

(3) A student who was emergency expelled between September 1, 2019, and the effective date of this section may request that any reference to "emergency expulsion" in the student's education record be revised to "emergency removal."

Sec. 8. RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

(1) Beginning with the 2017-18 school year, and using the phase-in provided in subsection (2) of this section, the superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity

reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(b) Further disaggregation of countries of origin for Asian students;

(c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

(a) Gender;

(b) Foster care;

(c) Homeless, if known;

(d) School district;

(e) School;

(f) Grade level;

(g) Behavior infraction code, including:

(i) Bullying;

(ii) Tobacco;

(iii) Alcohol;

(iv) Illicit drug;

(v) Fighting without major injury;

(vi) Violence without major injury;

(vii) Violence with major injury;

(viii) Possession of a weapon; and

(ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;

(h) Intervention applied, including:

(i) Short-term suspension;

(ii) Long-term suspension;

(iii) Emergency ((~~expulsion~~)) removal;

(iv) Expulsion;

(v) Interim alternative education settings;

(vi) No intervention applied; and

(vii) Other intervention applied that is not described in this subsection (4)(h);

(i) Number of days a student is suspended or expelled, to be counted in half or full days; and

(j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

(a) School and district;

(b) Race, low income, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;

(c) Behavior infraction code; and

(d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data on student race and ethnicity in other training or professional development related to data provided by the office.

Sec. 9. RCW 28A.600.015 and 2016 c 72 s 105 are each amended to read as follows:

(1) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ((~~ten~~)) 10 consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion. An expulsion or suspension of a student may not be for an indefinite period of time.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ((~~ten~~)) 10 consecutive school days.

(3) Emergency ((~~expulsions~~)) removals must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school. Notice and due process rights must be provided when an emergency ((~~expulsion~~)) removal is converted to another form of corrective action.

(4) School districts may not impose long-term suspension or expulsion as a form of discretionary discipline.

(5) Any imposition of discretionary and nondiscretionary discipline is subject to the bar on suspending the provision of educational services pursuant to subsection (8) of this section.

(6) As used in this chapter, "discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and this section, but does not constitute action taken in response to any of the following:

(a) A violation of RCW 28A.600.420;

(b) An offense in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff.

(7) Except as provided in RCW 28A.600.420, school districts are not required to impose long-term suspension or expulsion for behavior that constitutes a violation or offense listed under subsection (6)(a) through (d) of this section and should first consider alternative actions.

(8) School districts may not suspend the provision of educational services to a student as a disciplinary action. A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(9) Nothing in this section creates any civil liability for school districts, or creates a new cause of action or new theory of negligence against a school district board of directors, a school district, or the state.

Passed by the House April 13, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 243

[Substitute House Bill 1217]

WAGE COMPLAINT SETTLEMENTS—INTEREST

AN ACT Relating to improving worker recovery in wage complaints by authorizing the collection of interest and studying other options; and amending RCW 49.48.083.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 49.48.083 and 2011 c 301 s 16 are each amended to read as follows:

(1) If an employee files a wage complaint with the department, the department shall investigate the wage complaint. Unless otherwise resolved, the department shall issue either a citation and notice of assessment or a determination of compliance no later than ((~~sixty~~)) 60 days after the date on which the department received the wage complaint. The department may extend the time period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the time period and specifying the duration of the extension. The department may not investigate any

alleged violation of a wage payment requirement that occurred more than three years before the date that the employee filed the wage complaint. The department shall send the citation and notice of assessment or the determination of compliance to both the employer and the employee by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(2) If the department determines that an employer has violated a wage payment requirement and issues to the employer a citation and notice of assessment, the department may order the employer to pay employees all wages owed, including interest of one percent per month on all wages owed, to the employee. The wages and interest owed must be calculated from the first date wages were owed to the employee, except that the department may not order the employer to pay any wages and interest that were owed more than three years before the date the wage complaint was filed with the department.

(3) If the department determines that the violation of the wage payment requirement was a willful violation, the department also may order the employer to pay the department a civil penalty as specified in (a) of this subsection.

(a) A civil penalty for a willful violation of a wage payment requirement shall be not less than one thousand dollars or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a willful violation of a wage payment requirement shall be twenty thousand dollars.

(b) The department may not assess a civil penalty if the employer reasonably relied on: (i) A rule related to any wage payment requirement; (ii) a written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or (iii) an interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an employer is immune from civil penalties under (b)(ii) of this subsection.

(c) The department shall waive any civil penalty assessed against an employer under this section if the employer is not a repeat willful violator, and the director determines that the employer has provided payment to the employee of all wages that the department determined that the employer owed to the employee, including interest, within ten business days of the employer's receipt of the citation and notice of assessment from the department.

(d) The department may waive or reduce at any time a civil penalty assessed under this section if the director determines that the employer paid all wages and interest owed to an employee.

(e) The department shall deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(4) Upon payment by an employer, and acceptance by an employee, of all wages and interest assessed by the department in a citation and notice of assessment issued to the employer, the fact of such payment by the employer, and of such acceptance by the employee, shall: (a) Constitute a full and complete satisfaction by the employer of all specific wage payment requirements addressed in the citation and notice of assessment; and (b) bar the employee

from initiating or pursuing any court action or other judicial or administrative proceeding based on the specific wage payment requirements addressed in the citation and notice of assessment. The citation and notice of assessment shall include a notification and summary of the specific requirements of this subsection.

(5) The applicable statute of limitations for civil actions is tolled during the department's investigation of an employee's wage complaint against an employer. For the purposes of this subsection, the department's investigation begins on the date the employee files the wage complaint with the department and ends when: (a) The wage complaint is finally determined through a final and binding citation and notice of assessment or determination of compliance; or (b) the department notifies the employer and the employee in writing that the wage complaint has been otherwise resolved or that the employee has elected to terminate the department's administrative action under RCW 49.48.085.

(6) For all wage complaints filed on or after January 1, 2024, if the department offers the employer the option to resolve a wage complaint without a citation and notice of assessment, and the employer chooses to accept the offer, any settlement must include interest of one percent per month on all amounts owed. The employee may request a waiver or reduction of interest as part of the settlement process.

Passed by the House April 14, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 244

[House Bill 1218]

CASELOAD FORECAST—WORKING FAMILIES' TAX CREDIT

AN ACT Relating to adding a new caseload for the official caseload forecast for the number of people eligible for the working families' tax credit under RCW 82.08.0206; and amending RCW 43.88C.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.88C.010 and 2022 c 219 s 2 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider

extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of students who are eligible for the Washington college grant program under RCW 28B.92.200 and 28B.92.205 and are expected to attend an institution of higher education as defined in RCW 28B.92.030; ((~~and~~))

(d) The number of children who are eligible, as defined in RCW 43.216.505, to participate in, and the number of children actually served by, the early childhood education and assistance program; and

(e) Beginning with the first official forecast after the effective date of this section, the number of people eligible for the working families' tax credit under RCW 82.08.0206. The total number of people eligible for the working families' tax credit should include:

(i) The number of eligible people with no qualifying children;

(ii) The number of eligible people with one qualifying child;

(iii) The number of eligible people with two qualifying children; and

(iv) The number of eligible people with three or more qualifying children.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) By January 1, 2023, the caseload forecast council shall present the number of individuals who are assessed as eligible for and have requested a service through the individual and family services waiver and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service

request list as defined in RCW 71A.10.020 to aid in development of this information.

(10) Beginning with the official forecast submitted in November 2022 and subject to the availability of amounts appropriated for this specific purpose, the caseload forecast council shall forecast the number of individuals who are assessed as eligible for and have requested supported living services, a service through the core waiver, an individual and family services waiver, and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(11) As a courtesy, beginning with the official forecast submitted in November 2022, the caseload forecast council shall forecast the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration.

(12) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

(13) The caseload forecast council shall forecast the number of youth expected to receive behavioral rehabilitation services while involved in the foster care system and the number of screened in reports of child abuse or neglect.

(14) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

(15) During the 2021-2023 fiscal biennium, and beginning with the November 2021 forecast, the caseload forecast council shall produce an unofficial forecast of the long-term caseload for juvenile rehabilitation as a courtesy.

Passed by the House February 1, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 245

[Engrossed Substitute House Bill 1222]

HEARING INSTRUMENTS—GROUP HEALTH PLAN COVERAGE

AN ACT Relating to requiring coverage for hearing instruments; amending RCW 41.05.830; adding a new section to chapter 48.43 RCW; adding a new section to chapter 41.05 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) For nongrandfathered group health plans other than small group health plans issued or renewed on or after January 1, 2024, a health carrier shall include coverage for hearing instruments, including bone conduction hearing devices. This section does not include coverage of over-the-counter hearing instruments.

(2) Coverage shall also include the initial assessment, fitting, adjustment, auditory training, and ear molds as necessary to maintain optimal fit. Coverage of the services in this subsection shall include services for enrollees who intend to obtain or have already obtained any hearing instrument, including an over-the-counter hearing instrument.

(3) A health carrier shall provide coverage for hearing instruments as provided in subsection (1) of this section at no less than $3,000 per ear with hearing loss every 36 months.

(4) The services and hearing instruments covered under this section are not subject to the enrollee's deductible unless the health plan is offered as a qualifying health plan for a health savings account. For such a qualifying health plan, the carrier may apply a deductible to coverage of the services covered under this section only at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the enrollee's health savings account under internal revenue service laws and regulations.

(5) Coverage for a minor under 18 years of age shall be available under this section only after the minor has received medical clearance within the preceding six months from:

(a) An otolaryngologist for an initial evaluation of hearing loss; or

(b) A licensed physician, which indicates there has not been a substantial change in clinical status since the initial evaluation by an otolaryngologist.

(6) For the purposes of this section:

(a) "Hearing instrument" has the same meaning as defined in RCW 18.35.010.

(b) "Over-the-counter hearing instrument" has the same meaning as "over-the-counter hearing aid" in 21 C.F.R. Sec. 800.30 as of December 28, 2022.

Sec. 2. RCW 41.05.830 and 2018 c 159 s 1 are each amended to read as follows:

(1) Subject to appropriation, a health plan offered to employees and their covered dependents under this chapter issued or renewed on or after January 1, 2019, must include coverage for hearing instruments. Coverage must include a new hearing instrument every five years and services and supplies such as the initial assessment, fitting, adjustment, and auditory training.

(2) The hearing instrument must be recommended by a licensed audiologist, hearing aid specialist, or a licensed physician or osteopathic physician who specializes in otolaryngology and dispensed by a licensed audiologist, hearing aid specialist, or a licensed physician or osteopathic physician who specializes in otolaryngology.

(3) For the purposes of this section, "hearing instrument" and "hearing aid specialist" have the same meaning as defined in RCW 18.35.010.

(4) This section expires December 31, 2023.

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

A health plan offered to public employees and their covered dependents under this chapter issued or renewed on or after January 1, 2024, is subject to section 1 of this act.

Passed by the House April 13, 2023.

Passed by the Senate March 31, 2023.

Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 246

[Substitute House Bill 1234]

SEIZURE OF ANIMALS FOR ABUSE OR NEGLECT—CIVIL FORFEITURE

AN ACT Relating to the civil forfeiture of animals seized for abuse or neglect; amending RCW 16.52.085; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds and declares that:

(1) The use of preconviction civil remedies is not an affront to the presumption of innocence and shall be used to satisfy the interest of the state in mitigating the suffering of animals by expediting the disposition of animal victims seized during animal cruelty investigations.

(2) Washington has an interest in facilitating the mitigation of costs of care incurred by a government agency, an animal care and control agency or its agent, or a person or agency that provides treatment for seized animals. A government agency, an animal care and control agency or its agent, or a person or agency that provides care and treatment for seized animals may mitigate the costs of the care and treatment through funding that is separate from, and in addition to, any recovery of reasonable costs that a court orders a defendant to pay while a forfeiture proceeding is pending or subsequent to a conviction.

(3) The purpose of this act is to provide a means by which a neglected or abused animal, an animal involved in animal fighting, or an animal kept in violation of RCW 16.52.200 or a court order may be removed from its present custody and protected, cared for, and disposed of appropriately and humanely.

(4) The laws and rules of Washington that are applicable to civil asset forfeiture do not apply to the seizure and forfeiture of animals under this section.

Sec. 2. RCW 16.52.085 and 2020 c 158 s 3 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Minimum care" means care sufficient to preserve the physical and mental health and well-being of an animal and includes, but is not limited to, the following requirements:

(i) Food of sufficient nutrition, quantity, and quality to allow for normal growth or maintenance of healthy body weight;

(ii) Open or adequate access to potable water of a drinkable temperature in sufficient quantity to satisfy the animal's needs;

(iii) Shelter sufficient to protect the animal from wind, rain, snow, sun, or other environmental or weather conditions based on the animal's species, age, or physical condition;

(iv) Veterinary or other care as may be deemed necessary by a reasonably prudent person to prevent or relieve in a timely manner distress from injury, neglect, or physical infirmity; and

(v) Continuous access to an area:

(A) With adequate space for exercise necessary for the physical and mental health and well-being of the animal. Inadequate space may be indicated by evidence of debility, stress, or abnormal behavior patterns;

(B) With temperature and ventilation suitable for the health and well-being of the animal based on the animal's species, age, or physical condition;

(C) With regular diurnal lighting cycles of either natural or artificial light; and

(D) Kept reasonably clean and free from excess waste, garbage, noxious odors, or other contaminants, objects, or other animals that could cause harm to the animal's health and well-being.

(b) "Physical infirmity" includes, but is not limited to, starvation, dehydration, hypothermia, hyperthermia, muscle atrophy, restriction of blood flow to a limb or organ, mange or other skin disease, or parasitic infestation.

(c) "Physical injury" includes, but is not limited to, substantial physical pain, fractures, cuts, burns, punctures, bruises, or other wounds or illnesses produced by violence or by a thermal or chemical agent.

(d) "Serious physical injury or infirmity" means physical injury or physical infirmity that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of a limb or bodily organ.

(2)(a) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of ((~~an order issued under~~)) RCW 16.52.200(((~~(4) and no responsible person can be found to assume the animal's care~~)) or an order issued under RCW 16.52.205 or 16.52.207, the officer ((~~may authorize, with~~)), after obtaining a warrant, ((~~the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition~~)) may enter the premises where the animal is located and seize the animal.

(((~~(2)~~))) (b) If a law enforcement officer or an animal control officer has probable cause to believe ((~~a violation of this chapter has occurred~~)) an animal is in imminent danger or is suffering serious physical injury or infirmity, or needs immediate medical attention, the officer may ((~~authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property~~)) enter onto private property without a warrant to:

(i) Render emergency aid to the animal; or

(ii) Seize the animal without a warrant. Any animal seized without a warrant shall immediately be brought to a veterinarian licensed in the state of Washington to provide medical attention and to assess the health of the animal.

(c) A law enforcement officer or an animal control officer is not liable for any damages for entry onto private property without a warrant under this section,

provided that the officer does not use any more force than is reasonably necessary to enter upon the property and remove the animal.

(3)(a) An animal seized under this section may be placed into the custody of an animal care and control agency, into foster care that is not associated in any way with the owner, or with a nonprofit humane society, nonprofit animal sanctuary, or nonprofit rescue organization. In determining what is a suitable placement, the officer shall consider the animal's needs, including its size, medical needs, and behavioral characteristics. Any person or custodial agency receiving an animal seized under this section shall provide the animal with minimum care.

(b) If a seized animal is placed into foster care or with a nonprofit animal sanctuary or rescue organization, the seizing agency shall retain constructive custody of the animal, shall have the duty to ensure the animal receives minimum care, and may draw from the bond under subsection (5) of this section and distribute the funds to the foster home, authorized humane society, sanctuary, or rescue organization that is authorized to care for the animal.

(4) The owner from whom the animal was seized shall be provided with notice of the right to petition for immediate return of the animal and shall be afforded an opportunity to petition for such a civil hearing before the animal is deemed abandoned and forfeited. Any owner whose ((~~domestic~~)) animal is ((~~removed pursuant to this chapter~~)) seized by a law enforcement officer or animal control officer under this section shall, within 72 hours following the seizure, be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to the last known or suspected owner in person or a person residing at the place of seizure, or by registered mail ((~~if the owner is known~~)) to the last known or suspected owner. ((~~In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal~~)) Such notice shall include:

(a) The name, business address, and telephone number of the law enforcement agency or animal care and control agency responsible for seizing the animal;

(b) A description of the seized animal;

(c) The authority and purpose for the seizure, including the time, place, and circumstances under which the animal was seized;

(d) A statement that the owner is responsible for the cost of care for an animal who was lawfully seized, and that the owner will be required to post a bond with the clerk of the district court of the county from which the animal was seized to defray the cost of minimum care pursuant to subsection (5) of this section within 14 calendar days of the seizure or the animal will be deemed abandoned and forfeited; and

(e) A statement that the owner has a right to petition the district court for a civil hearing for immediate return of the animal and that in order to receive a hearing, the owner or owner's agent must request the civil hearing by signing and returning to the court an enclosed petition within 14 calendar days after the date of seizure. The enclosed petition must be in substantially the same form as set forth in subsection (13) of this section.

(((~~(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business~~

~~days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to post or renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with animals under RCW 16.52.200(4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.~~

~~(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court. Copies of the petition must be served on the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must surrender the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the hearing on the petition, then the petition shall be joined with the criminal matter.~~

~~(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.~~

~~(7)~~)) (5)(a) When an animal is seized pursuant to this section, the owner shall post a bond with the district court in an amount sufficient to provide minimum care for each animal seized for 30 days, including the day on which the animal was taken into custody, regardless of whether the animal is the subject of a criminal charge. Such bond shall be filed with the clerk of the district court of the county from which the animal was seized within 14 calendar days after the day the animal is seized.

(b)(i) If an owner fails to post a bond by 5:00 p.m. on the 14th calendar day after the day the animal was seized as required under this section, the animal is deemed abandoned and the owner's interest in the animal is forfeited to the custodial agency by operation of law in accordance with the notice provided in subsection (4) of this section.

(ii) A petition required by subsection (4)(e) of this section may be filed in the district court of the county from which an animal was seized concerning any animal seized pursuant to this section. Copies of the petition must be served on the law enforcement agency or animal care and control agency responsible for seizing the animal and the prosecuting attorney.

(iii) An owner's failure to file a written petition by 5:00 p.m. on the 14th calendar day after the day the animal was seized shall constitute a waiver of the right to file a petition under this subsection and the animal is deemed abandoned and the owner's interest in the animal is forfeited to the custodial agency by

operation of law unless a bond has been posted pursuant to this subsection (5). The court may extend the 14-day period to file a written petition by an additional 14 calendar days if the petitioner did not have actual notice of the seizure and the court finds, on the record and in writing, that there are exceptional and compelling circumstances justifying the extension.

(c)(i) Upon receipt of a petition pursuant to (b) of this subsection, the court shall set a civil hearing on the petition. The hearing shall be conducted within 30 calendar days after the filing of the petition.

(ii) At the hearing requested by the owner, the rules of civil procedure shall apply and the respondent shall have the burden of establishing probable cause to believe that the seized animal was subjected to a violation of this chapter. The owner shall have an opportunity to be heard before the court makes its final finding. If the court finds that probable cause exists, the court shall order the owner to post a bond as required by this subsection (5) within 72 hours of the hearing, and if the owner fails to do so, the seized animal is deemed abandoned and the owner's interest in the animal is forfeited to the custodial agency by operation of law. If the respondent does not meet its burden of proof, the court may order the animal returned to the owner at no cost to the owner, subject to conditions set by the court. If the court orders the return of an animal to the owner, the court may also order:

(A) Reasonable attorney fees for the owner; and

(B) A full refund of the bond posted pursuant to this subsection (5) by the owner for the care of the animal.

(d)(i) If a bond has been posted in accordance with this subsection (5), subsequent court proceedings shall be given court calendar priority so long as the animal remains in the custody of the custodial agency and the custodial agency may draw from the bond the actual reasonable costs incurred by the agency in providing minimum care to the animal from the date of seizure to the date of final disposition of the animal in the criminal action.

(ii) At the end of the time for which expenses are covered by the bond, if the owner seeks to prevent disposition of the animal by the custodial agency, the owner shall post a new bond with the court within 72 hours following the prior bond's expiration. If an owner fails to post or renew a bond as required under this subsection (5), the animal is deemed abandoned and the owner's interest in the animal is forfeited to the custodial agency by operation of law.

(e) For the purposes of this subsection (5), "animal" includes all unborn offspring of the seized animal and all offspring of the seized animal born after the animal was seized.

(6) When an animal is seized from a person prohibited from owning, caring for, possessing, or residing with animals under RCW 16.52.200 or an order issued pursuant to RCW 16.52.205 or 16.52.207, the animal is immediately and permanently forfeited by operation of law to the custodial agency and no court action is necessary.

(7) If an animal is forfeited to a custodial agency according to the provisions of this section, the agency to which the animal was forfeited may place the animal with a new owner; provided that the agency may not place the animal with family members or friends of the former owner or with anyone who lives in the same household as the former owner. At the time of placement, the agency must provide the new owner with notice that it may constitute a crime for the

former owner to own, care for, possess, or reside with the animal at any time in the future.

(8) A custodial agency may authorize a veterinarian or veterinary technician licensed in the state of Washington or a certified euthanasia technician certified in the state of Washington to euthanize a seized animal for humane reasons at any time if the animal is severely injured, sick, diseased, or suffering.

(9) Nothing in this chapter shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to a law enforcement officer, animal control officer, or animal care and control agency. Voluntary relinquishment has no effect on the criminal charges that may be pursued by the appropriate authorities.

(10) Nothing in this chapter requires court action for taking custody of, caring for, and properly disposing of stray, feral, at-large, or abandoned animals, or wild animals not owned or kept as pets or livestock, as lawfully performed by law enforcement agencies or animal care and control agencies.

(11) Any authorized person caring for, treating, or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

(12) The provisions of this section are in addition to, and not in lieu of, the provisions of RCW 16.52.200.

(13) A petition for a civil hearing for the immediate return of a seized animal shall be in a form substantially similar to the following:

"IN THE . . . . . COURT
OF THE STATE OF WASHINGTON IN AND FOR
THE COUNTY OF . . . . . .

,	No. . . . .
Petitioner,	
vs.	PETITION FOR
,	RETURN OF SEIZED
Respondent	ANIMALS

PARTIES/JURISDICTION

(a)(i) That Petitioner is, and at all relevant times herein was, a resident of . . . . . (county of residence) County, Washington.

(ii) That Respondent is, and at all relevant times herein was, an agent, contractor, or political subdivision of the City/County of . . . . . (city or county of seizing agency), State of Washington.

(iii) That Petitioner's animal/animals were seized by Respondent in . . . . . (county where animals were seized) County, Washington.

(iv) That this Court has jurisdiction over the subject matter and the parties hereto.

FACTS

(b)(i) That upon seizure of . . . . (number and type of animals) such animals were placed in the care and custody of the Respondent on . . . . (date of seizure).

(ii) That on or about . . . . (date on notice) the Respondent issued a seizure, bond, and forfeiture notice under RCW 16.52.085, a true and correct copy of

said notice and accompanying attachments is attached hereto and incorporated herein as Exhibit A (attach a copy of the notice of seizure to this petition).

(iii) That pursuant to such notice, Petitioner herein files this petition for the immediate return of all such seized animals pursuant to RCW 16.52.085.

PRAYER

(c) Petitioner prays that this Court grant said petition and order the immediate return of Petitioner's aforementioned animals to Petitioner's care and custody.

DATED the . . . day of ....., ...

By: .....
Petitioner (Signature)

Passed by the House February 8, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 247

[House Bill 1243]

MUNICIPAL AIRPORT COMMISSIONS—POWERS, DUTIES, AND MEMBERSHIP

AN ACT Relating to municipal airport commissions; and amending RCW 14.08.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 14.08.120 and 2021 c 106 s 1 are each amended to read as follows:

(1) In addition to the general powers conferred in this chapter, and without limitation thereof, a municipality that has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or that has acquired or set apart or may hereafter acquire or set apart real property for that purpose or purposes is authorized:

(a) To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation thereof in an officer, a board, or body of the municipality by ordinance or resolution that prescribes the powers and duties of the officer, board, or body((~~; and the municipality may also vest authority for industrial and commercial development in a municipal airport commission consisting of at least five resident taxpayers of the municipality to be appointed by the governing board of the municipality by an ordinance or resolution that includes (i) the terms of office, which may not exceed six years and which shall be staggered so that not more than three terms will expire in the same year, (ii) the method of appointment and filling vacancies, (iii) a provision that there shall be no compensation but may provide for a per diem of not to exceed twenty-five dollars per day plus travel expenses for time spent on commission business, (iv) the powers and duties of the commission, and (v) any other matters necessary to the exercise of the powers relating to industrial and commercial development~~)).

(i) The municipality may also vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, management,

industrial and commercial development, and regulation thereof in a municipal airport commission through an ordinance or resolution that includes: (A) The terms of office, which may not exceed six years and which must be staggered so that not more than three terms expire in the same year; (B) the method of appointment and filling vacancies; (C) a provision that there is no compensation, but the provision may provide for a per diem for time spent on commission business of not more than $25 per day plus travel expenses or, in lieu of travel expenses when travel requires overnight lodging, for a per diem payment of not more than the United States general services administration's per diem rates; (D) the powers and duties of the commission; and (E) any other matters necessary to the exercise of the commission's powers. The expense of the construction, enlargement, improvement, maintenance, equipment, industrial and commercial development, operation, management, and regulation are the responsibility of the municipality.

(ii) The commission consists of at least five members appointed by the governing body of the municipality, subject to the following conditions:

(A) In a municipality with a population of 35,000 or greater, members must be residents of the municipality;

(B) In a municipality with a population of fewer than 35,000, at least a majority of members must be residents of the municipality or the county in which the municipality is located, with any remaining members residents of a county or counties adjoining the municipality or the county in which the municipality is located;

(C) A majority of the commissioners must have expertise in: The aviation industry; business administration or operations; finance; accounting; marketing; economic development; commercial real estate development; engineering; planning and construction; law; utilities; or other related experience from industries that have a logical nexus with airport administration, operations, and development;

(D) Immediate family members of the governing body of the municipality, and current and former employees of the municipal airport, may not be appointed to the commission; and

(E) Members must agree to adhere to the ethical standards of conduct adopted by the municipality or the existing municipal airport commission.

(iii) A municipality may vest authority in a municipal airport commission to apply for loans through the public use general aviation airport loan program.

(b) To adopt and amend all needed rules, regulations, and ordinances for the management, government, and use of any properties under its control, whether within or outside the territorial limits of the municipality; to provide fire protection for the airport, including the acquisition and operation of fire protection equipment and facilities, and the right to contract with any private body or political subdivision of the state for the furnishing of such fire protection; to appoint airport guards or police, with full police powers; to fix by ordinance or resolution, as may be appropriate, penalties for the violation of the rules, regulations, and ordinances, and enforce those penalties in the same manner in which penalties prescribed by other rules, regulations, and ordinances of the municipality are enforced. For the purposes of such management and government and direction of public use, that part of all highways, roads, streets, avenues, boulevards, and territory that adjoins the limits of any airport or

restricted landing area acquired or maintained under the provisions of this chapter is under like control and management of the municipality. It may also adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports or landing strips within the municipality or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules, regulations, and ordinances shall be published as provided by general law or the charter of the municipality for the publication of similar rules, regulations, and ordinances. They shall conform to and be consistent with the laws of this state and the rules of the state department of transportation and shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and the rules and standards issued from time to time pursuant thereto.

(c) To create a special airport fund, and provide that all receipts from the operation of the airport be deposited in the fund, which fund shall remain intact from year to year and may be pledged to the payment of aviation bonds, or kept for future maintenance, construction, or operation of airports or airport facilities.

(d) To lease airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department thereof, for operation; to lease or assign to private parties, any municipal or state government or the national government, or any department thereof, for operation or use consistent with the purposes of this chapter, space, area, improvements, or equipment of such airports; to authorize its lessees to construct, alter, repair, or improve the leased premises at the cost of the lessee and to reimburse its lessees for such cost, provided the cost is paid solely out of funds fully collected from the airport's tenants; to sell any part of such airports, other air navigation facilities or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities: PROVIDED, That in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

(e) Acting through its governing body, to sell or lease any property, real or personal, acquired for airport purposes and belonging to the municipality, which, in the judgment of its governing body, may not be required for aircraft landings, aircraft takeoffs or related aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the municipality, governing the sale or leasing of similar municipally owned property. The municipal airport commission, if one has been organized and appointed under (a) of this subsection, may lease any airport property for aircraft landings, aircraft takeoffs, or related aeronautic purposes. If there is a finding by the governing body of the municipality that any airport property, real or personal, is not required for aircraft landings, aircraft takeoffs, or related aeronautic purposes, then the municipal airport commission may lease such space, land, area, or improvements, or construct improvements, or take leases back for financing purposes, grant concessions on such space, land, area, or improvements, all for industrial or commercial purposes, by private negotiation and under such terms and conditions that seem just and proper to the municipal airport commission.

Any such lease of real property for aircraft manufacturing or aircraft industrial purposes or to any manufacturer of aircraft or aircraft parts or for any other business, manufacturing, or industrial purpose or operation relating to, identified with, or in any way dependent upon the use, operation, or maintenance of the airport, or for any commercial or industrial purpose may be made for any period not to exceed ((~~seventy-five~~)) 75 years, but any such lease of real property made for a longer period than ((~~ten~~)) 10 years shall contain provisions requiring the municipality and the lessee to permit the rentals for each five-year period thereafter, to be readjusted at the commencement of each such period if written request for readjustment is given by either party to the other at least ((~~thirty~~)) 30 days before the commencement of the five-year period for which the readjustment is requested. If the parties cannot agree upon the rentals for the five-year period, they shall submit to have the disputed rentals for the period adjusted by arbitration. The lessee shall pick one arbitrator, and the governing body of the municipality shall pick one, and the two so chosen shall select a third. After a review of all pertinent facts the board of arbitrators may increase or decrease such rentals or continue the previous rate thereof.

The proceeds of the sale of any property the purchase price of which was obtained by the sale of bonds shall be deposited in the bond sinking fund. If all the proceeds of the sale are not needed to pay the principal of bonds remaining unpaid, the remainder shall be paid into the airport fund of the municipality. The proceeds of sales of property the purchase price of which was paid from appropriations of tax funds shall be paid into the airport fund of the municipality.

(f) To determine the charges or rental for the use of any properties under its control and the charges for any services or accommodations, and the terms and conditions under which such properties may be used: PROVIDED, That in all cases the public is not deprived of its rightful, equal, and uniform use of the property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of operation to the municipality. The municipality shall have and may enforce liens, as provided by law for liens and enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges. As used in this subsection (1)(f), the term "charges" does not refer to any minimum labor standard imposed by a municipality pursuant to subsection (2) of this section.

(g) To impose a customer facility charge upon customers of rental car companies accessing the airport for the purposes of financing, designing, constructing, operating, and maintaining consolidated rental car facilities and common use transportation equipment and facilities which are used to transport the customer between the consolidated car rental facilities and other airport facilities. The airport operator may require the rental car companies to collect the facility charges, and any facility charges so collected shall be deposited in a trust account for the benefit of the airport operator and remitted at the direction of the airport operator, but no more often than once per month. The charge shall be calculated on a per-day basis. Facility charges may not exceed the reasonable costs of financing, designing, constructing, operating, and maintaining the consolidated car rental facilities and common use transportation equipment and facilities and may not be used for any other purpose. For the purposes of this subsection (1)(g), if an airport operator makes use of its own funds to finance the

consolidated rental car facilities and common use transportation equipment and facilities, the airport operator (i) is entitled to earn a rate of return on such funds no greater than the interest rate that the airport operator would pay to finance such facilities in the appropriate capital market, provided that the airport operator establish the rate of return in consultation with the rental car companies, and (ii) may use the funds earned under (g)(i) of this subsection for purposes other than those associated with the consolidated rental car facilities and common use transportation equipment and facilities.

(h) To make airport property available for less than fair market rental value under very limited conditions provided that prior to the lease or contract authorizing such use the airport operator's board, commission, or council has (i) adopted a policy that establishes that such lease or other contract enhances the public acceptance of the airport and serves the airport's business interest and (ii) adopted procedures for approval of such lease or other contract.

(i) If the airport operator has adopted the policy and procedures under (h) of this subsection, to lease or license the use of property belonging to the municipality and acquired for airport purposes at less than fair market rental value as long as the municipality's council, board, or commission finds that the following conditions are met:

(i) The lease or license of the subject property enhances public acceptance of the airport in a community in the immediate area of the airport;

(ii) The subject property is put to a desired public recreational or other community use by the community in the immediate area of the airport;

(iii) The desired community use and the community goodwill that would be generated by such community use serves the business interest of the airport in ways that can be articulated and demonstrated;

(iv) The desired community use does not adversely affect the capacity, security, safety, or operations of the airport;

(v) At the time the community use is contemplated, the subject property is not reasonably expected to be used by an aeronautical tenant or otherwise be needed for airport operations in the foreseeable future;

(vi) At the time the community use is contemplated, the subject property would not reasonably be expected to produce more than de minimis revenue;

(vii) If the subject property can be reasonably expected to produce more than de minimis revenue, the community use is permitted only where the revenue to be earned from the community use would approximate the revenue that could be generated by an alternate use;

(viii) Leases for community use must not preclude reuse of the subject property for airport purposes if, in the opinion of the airport owner, reuse of the subject property would provide greater benefits to the airport than continuation of the community use;

(ix) The airport owner ensures that airport revenue does not support the capital or operating costs associated with the community use;

(x) The lease or other contract for community use is not to a for-profit organization or for the benefit of private individuals;

(xi) The lease or other contract for community use is subject to the requirement that if the term of the lease is for a period that exceeds ((~~ten~~)) 10 years, the lease must contain a provision allowing for a readjustment of the rent every five years after the initial ((~~ten-year~~)) 10-year term;

(xii) The lease or other contract for community use is subject to the requirement that the term of the lease must not exceed ((~~fifty~~)) 50 years; and

(xiii) The lease or other contract for community use is subject to the requirement that if the term of the lease exceeds one year, the lease or other contract obligations must be secured by rental insurance, bond, or other security satisfactory to the municipality's board, council, or commission in an amount equal to at least one year's rent, or as consistent with chapter 53.08 RCW. However, the municipality's board, council, or commission may waive the rent security requirement or lower the amount of the rent security requirement for good cause.

(j) To exercise all powers necessarily incidental to the exercise of the general and special powers granted in this section.

(2)(a) A municipality that controls or operates an airport having had more than ((~~twenty million~~)) 20,000,000 annual commercial air service passenger enplanements on average over the most recent seven full calendar years that is located within the boundaries of a city that has passed a local law or ordinance setting a minimum labor standard that applies to certain employers operating or providing goods and services at the airport is authorized to enact a minimum labor standard that applies to employees working at the airport, so long as the minimum labor standard meets, but does not exceed, the minimum labor standard in the city's law or ordinance.

(b) A municipality's authority to establish a minimum labor standard pursuant to (a) of this subsection may be imposed only on employers that are excluded from the minimum labor standard established by such city because the type of good or service provided by the employer is expressly excluded in the text of the city's law or ordinance.

(c) This section does not authorize a municipality to establish a minimum labor standard for an employer who was excluded from the city's law or ordinance because it is a certificated air carrier performing services for itself or based on the employer's size or number of employees.

(d) The authority granted under (a) of this subsection shall only apply to employers who provide the goods or services at the airport from facilities that are located on property owned by the municipality and within the boundaries of the city that enacted the minimum labor standard.

Passed by the House April 14, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 248

[House Bill 1262]

CHILD SUPPORT—LUMP SUM REPORTING SYSTEM

AN ACT Relating to establishing a lump sum reporting system; amending RCW 26.23.020, 26.23.060, and 26.23.070; adding a new section to chapter 26.23 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes the importance of child support for families and the crucial role employers play as the primary source of income for many parents who owe child support.

(2) The legislature finds that when states have adopted a program for withholding and collection of lump sum payments from employers for child support arrears, those states have seen an increase in funds going to children. Employers, however, face a risk of liability for failing to timely pay employees their earned income by holding a lump sum payment pending a state response on whether arrears for child support are owed and withholding is required. Employers also face a risk of liability if a lump sum payment is released to an employee before receiving a state response about arrears for child support and withholding, even if the employer is complying with state wage and hour laws.

(3) As a result, the legislature finds that adopting a program for withholding and collection of lump sum payments from employers for child support arrears that states the requirements of the department of social and health services and employers benefits families by increasing funds going to children and also mitigates risks to employers.

Sec. 2. RCW 26.23.020 and 1987 c 435 s 2 are each amended to read as follows:

(1) The definitions contained in RCW 74.20A.020 shall be incorporated into and made a part of this chapter.

(2) "Support order" means a superior court order or administrative order, as defined in RCW 74.20A.020.

(3) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW. Earnings shall specifically include all gain from capital, from labor, or from both combined, not including profit gained through sale or conversion of capital assets.

(4) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of an amount required by law to be withheld.

(5) "Employer" means any person or entity who pays or owes earnings in employment as defined in Title 50 RCW to the responsible parent including but not limited to the United States government, or any state or local unit of government.

(6) "Employee" means a person in employment as defined in Title 50 RCW to whom an employer is paying, owes or anticipates paying earnings as a result of services performed.

(7) "Lump sum payment" means income other than a periodic recurring payment of earnings on regular paydays and does not include reimbursement for expenses. Lump sum payment includes, but is not limited to, discretionary and nondiscretionary bonuses, commissions, performance bonuses, merit increases, safety awards, signing bonuses, moving and relocation incentive payments, holiday pay, termination pay, and severance pay. Lump sum payment also

includes workers' compensation, insurance settlements, and personal injury settlements paid as replacement for wages owed.

Sec. 3. RCW 26.23.060 and 2021 c 35 s 15 are each amended to read as follows:

(1) The division of child support may issue an income withholding order:

(a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or

(b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

(2) The division of child support shall serve an income withholding order upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW or from the paid family and medical leave program under Title 50A RCW:

(a) In the manner prescribed for the service of a summons in a civil action;

(b) By certified mail, return receipt requested;

(c) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means; or

(d) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner prescribed in (a) or (b) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement.

(3) Service of an income withholding order upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or benefits paid by the employment security department. The amount to be withheld stated in the income withholding order is as follows:

(a) If the income withholding order is not for a lump sum payment under section 5 of this act, the employer or employment security department shall thereafter deduct each pay period the amount stated in the order divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed ((~~fifty~~)) 50 percent of the responsible parent's disposable earnings; or

(b) If the income withholding order is for a lump sum payment under section 5 of this act, the employer shall withhold the lump sum payment or the amount stated in the order, whichever is less, unless a portion of the lump sum payment is disposable earnings. If a portion of the lump sum payment is comprised of disposable earnings, 50 percent of the portion considered disposable earnings is not subject to the income withholding order.

(4) An income withholding order for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The income withholding order shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed ((~~fifty~~)) 50 percent of the responsible parent's disposable earnings;

(d) The address to which the payments are to be mailed or delivered; and

(e) A notice to the responsible parent warning the responsible parent that, despite the payroll deduction, the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as defined in RCW 74.20A.320.

(6) An informational copy of the income withholding order shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives an income withholding order shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry within seven working days of the date the earnings are payable to the responsible parent.

(8) An employer, or the employment security department, upon whom an income withholding order is served, shall make an answer to the division of child support within ((~~twenty~~)) 20 days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives benefit payments from the employment security department, whether the employer or employment security department anticipates paying earnings or benefits and the amount of earnings or benefit payments. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving benefit payments from the employment security department, the answer shall state the present employer's name and address, if known.

The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the income withholding order in the case where the order was served by regular mail.

(9) The employer may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the income withholding order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The income withholding order shall remain in effect until released by the division of child support, the court enters an order terminating the income withholding order and approving an alternate arrangement under RCW 26.23.050, or until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the income withholding order. For the employment security department, the income withholding order shall remain in effect until released by the division of child support or until the court enters an order terminating the income withholding order.

(11) The division of child support must use income withholding forms adopted and required by the United States department of health and human services to take withholding actions under this section whether the responsible parent is receiving earnings or unemployment compensation in this state or in another state.

Sec. 4. RCW 26.23.070 and 2021 c 168 s 4 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~~)) an income withholding order under this chapter shall be civilly liable to the responsible parent for complying with ((~~a notice of payroll deduction~~)) an income withholding order under this chapter.

(3) No employer shall be civilly liable to the responsible parent for:

(a) Reporting a lump sum payment under this chapter; or

(b) Withholding and remitting a lump sum payment under this chapter or under chapter 74.20A RCW.

(4) 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~~)) this chapter;

(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 chapter 168, Laws of 2021.

((~~(4)~~)) (5) 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.** A new section is added to chapter 26.23 RCW to read as follows:

(1) An employer who has been served with an income withholding order for a responsible parent under this chapter, or chapter 74.20A or 26.21A RCW, that includes a provision for payment toward child support arrears shall notify the division of child support before making any lump sum payment of more than $500 to the responsible parent. An employer may report a lump sum payment of a smaller amount or an amount yet to be determined by the division of child support.

(2) The employer provides notice by contacting:

(a) The division of child support; or

(b) The federal office of child support enforcement.

(3) An employer who reports a lump sum payment under this section shall determine the portion of the lump sum payment which consists of disposable earnings and may disburse 50 percent of that amount to the responsible parent.

(4) The employer must withhold and remit to the division of child support the amount needed to comply with the income withholding order.

(5) Notwithstanding any other provision of state law, unless otherwise agreed to by the employer and the division of child support, the employer may not disburse the remaining amount of the lump sum payment before the earlier of:

(a) The 15th calendar day after the date on which the employer reports the lump sum payment; or

(b) The date on which the income payer receives authorization from the division of child support to make all or a portion of the lump sum payment.

(6) Upon receipt of notice of a lump sum payment under this section, the division of child support shall respond to the employer within 14 calendar days after receiving the employer's report of a lump sum payment by providing:

(a) A written release indicating that some or all of the portion of the lump sum payment retained by the income payer may be disbursed to the obligor; or

(b) An amended or supplemental income withholding order or other written demand specifying the amount of the lump sum payment to be remitted to the division of child support on behalf of the responsible parent.

(7) The duties of an employer under this section are governed by the laws of the state of the responsible parent's principal place of employment.

(8) Failure to timely provide notice of a lump sum payment may constitute noncompliance under RCW 74.20A.350.

Passed by the House February 9, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 249

[Substitute House Bill 1326]
MUNICIPAL UTILITIES—CONNECTION CHARGE WAIVERS

AN ACT Relating to waiving municipal utility connection charges for certain properties; amending RCW 35.92.380; and adding a new section to chapter 35.92 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 35.92 RCW to read as follows:

(1) Municipal utilities formed under this chapter may waive connection charges for properties owned or developed by, or on the behalf of, a nonprofit organization, public development authority, housing authority, or local agency that provides emergency shelter, transitional housing, permanent supportive housing, or affordable housing, including a limited partnership as described in RCW 84.36.560(7)(f)(ii) and a limited liability company as described in RCW 84.36.560(7)(f)(iii).

(2) Connection charges waived under this chapter shall be funded using general funds, grant dollars, or other identified revenue stream.

(3) At such time as a property receiving a waiver under subsection (1) of this section is no longer operating under the eligibility requirements under subsection (1) of this section:

(a) The waiver of connection charges required under subsection (1) of this section is no longer required; and

(b) Any connection charges waived under subsection (1) of this section are immediately due and payable to the utility as a condition of continued service.

(4) For the purposes of this section:

(a) "Affordable housing" has the same meaning as in RCW 36.70A.030.

(b) "Connection charges" means the one-time capital and administrative charges, as authorized in RCW 35.92.025, that are imposed by a utility on a building or facility owner for a new utility service and costs borne or assessed by a utility for the labor, materials, and services necessary to physically connect a designated facility to the respective utility service.

(c) "Emergency shelter" means any facility that has, as its sole purpose, the provision of a temporary shelter for the homeless and that does not require occupants to sign a lease or occupancy agreement.

(d) "Permanent supportive housing" has the same meaning as in RCW 36.70A.030.

(e) "Transitional housing" has the same meaning as in RCW 84.36.043.

Sec. 2. RCW 35.92.380 and 1980 c 150 s 1 are each amended to read as follows:

Whenever a city or town waives or delays collection of tap-in charges, connection fees, or hookup fees for ((~~low income~~)) low-income persons, ((~~or~~)) a class of ((~~low income~~)) low-income persons, or a nonprofit organization, public development authority, housing authority, or local agency that provides emergency shelter, transitional housing, permanent supportive housing, or affordable housing as defined in section 1 of this act to connect to lines or pipes used by the city or town to provide utility service, the waiver or delay shall be pursuant to a program established by ordinance. As used in this section, the provision of "utility service" includes, but is not limited to, water, sanitary or storm sewer service, electricity, gas, other means of power, and heat.

Passed by the House April 13, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 250

[Engrossed Substitute House Bill 1369]

FISH AND WILDLIFE OFFICERS—OFF-DUTY EMPLOYMENT

AN ACT Relating to off-duty employment of fish and wildlife officers; adding a new section to chapter 77.15 RCW; and adding a new section to chapter 4.92 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 77.15 RCW to read as follows:

Washington fish and wildlife officers may engage in private law enforcement off-duty employment, in uniform or in plainclothes for private benefit, subject to guidelines adopted by the chief of fish and wildlife enforcement. These guidelines must ensure that the integrity and professionalism of the Washington fish and wildlife enforcement is preserved. Use of Washington fish and wildlife officer's uniforms shall be considered de minimis use of state property. For any employment authorized under this section

that occurs on reservation, trust, or allotted lands of a federally-recognized Indian tribe, a Washington fish and wildlife officer must have taken the violence de-escalation and mental health training provided by the criminal justice training commission, including the curriculum of the history of police interactions with Native American communities; and the private employer must have obtained permission from the affected federally recognized Indian tribe.

NEW SECTION. **Sec. 2.** A new section is added to chapter 4.92 RCW to read as follows:

(1) The state is not liable for tortious conduct by department of fish and wildlife officers that occurs while such officers are engaged in private law enforcement off-duty employment.

(2) Upon petition of the state any suit, for which immunity is granted to the state under subsection (1) of this section, shall be dismissed.

(3) Department of fish and wildlife officers engaged in private law enforcement off-duty employment shall notify, in writing, prior to such employment, anyone who employs department of fish and wildlife officers in private off-duty employment of the specific provisions of subsections (1) and (2) of this section.

Passed by the House April 13, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 251

[Substitute House Bill 1457]

MOTOR CARRIERS—SHIPPER AND CONSIGNEE RESTROOM ACCESS

AN ACT Relating to a motor carrier's ability to access restroom facilities required by rules authorized under chapter 49.17 RCW; adding a new section to chapter 70.54 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

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

(a) "Consignee" means a person or business who takes delivery of property, cargo, or materials transported in interstate or intrastate commerce from a motor carrier.

(b) "Motor carrier" includes "common carrier," "contract carrier," and "private carrier" as defined in RCW 81.80.010.

(c) "Restroom" means a bathroom facility as required by rules authorized under chapter 49.17 RCW, located on the premises of, and operated by, a shipper or consignee and that is intended for use by customers or employees of the shipper or consignee.

(d) "Shipper" means a person or business who tenders property, cargo, or materials to a motor carrier for transportation in interstate or intrastate commerce.

(2) A shipper or consignee required to provide a restroom by rules authorized under chapter 49.17 RCW must allow a motor carrier delivering goods to or picking goods up from a shipper or consignee to use that restroom during normal business hours if:

(a) The restroom is located in an area where providing access would not create an obvious health or safety risk to the motor carrier; and

(b) Allowing the motor carrier to access the restroom does not pose an obvious security, health, or safety risk to the shipper, consignee, or its employees.

(3) A shipper or consignee is not required to make any physical changes to a restroom under this section and may require that an employee accompany a motor carrier to the restroom.

(4) A shipper or consignee or an employee of a shipper or consignee is not civilly liable for any act or omission in allowing a motor carrier to use a restroom if the act or omission:

(a) Is not willful or grossly negligent;

(b) Occurs in an area of the shipper or consignee facility that is not accessible to the public; and

(c) Results in an injury to or death of the motor carrier or any individual other than an employee accompanying the motor carrier.

(5)(a) The department of health has jurisdiction to enforce this section.

(b) The department of health may issue a warning letter to a shipper or consignee for a first violation of this section, informing the shipper or consignee of the requirements of this section. A shipper or consignee that violates this section after receiving a warning letter is guilty of a class 2 civil infraction under chapter 7.80 RCW.

Passed by the House March 1, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 252

[Second Substitute House Bill 1491]

EMPLOYER SEARCHES OF EMPLOYEE PERSONAL VEHICLES

AN ACT Relating to prohibiting unjustified employer searches of employee personal vehicles; and adding a new section to chapter 49.44 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44 RCW to read as follows:

(1) Except as provided in subsection (2) of this section:

(a) An employer or an employer's agent may not search the privately owned vehicles of employees located on the employer's parking lots or garages or located on the access road to the employer's parking lots or garages.

(b) An employee may possess any of the employee's private property within the employee's vehicle, unless possession of such property is otherwise prohibited by law.

(c) An employer must not require, as a condition of employment, that an employee or prospective employee waive the protections of (a) or (b) of this subsection.

(2) This section does not apply:

(a) To vehicles owned or leased by an employer;

(b) To lawful searches by law enforcement officers;

(c) When the employer requires or authorizes the employee to use the employee's personal vehicle for work-related activities and the employer needs to inspect the vehicle to ensure the vehicle is suited to conduct the work-related activities;

(d) When a reasonable person would believe that accessing vehicles of an employee is necessary to prevent an immediate threat to human health, life, or safety;

(e) When an employee consents to a search of his or her privately owned vehicle by the business owner, owner's agent, or a licensed private security guard based on probable cause that the employee unlawfully possesses: (i) Employer property; or (ii) a controlled substance in violation of both federal law and the employer's written policy prohibiting drug use. The employee's consent must be given immediately prior to the search, and the employer may not require that the employee waive consent as a condition of employment. Upon consent, the employee has the right to select a witness to be present for the search;

(f) To security inspections of vehicles on state and federal military installations and facilities;

(g) To vehicles located on the premises of a state correctional institution, as defined in RCW 9.94.049; or

(h) To specific employer areas subject to searches under state or federal law.

(3) For purposes of this section, the terms "probable cause" and "private property" have their usual meaning under state and federal law.

(4) An employer may not take any adverse action against an employee for exercising any right under this section. An adverse action means any action taken or threatened by an employer against an employee for exercising the employee's rights under this section, and may include, but are not limited to:

(a) Denying the use of, or delaying, wages or other amounts owed to the employee;

(b) Terminating, suspending, demoting, or denying a promotion;

(c) Reducing the number of work hours for which the employee is scheduled;

(d) Altering the employee's preexisting work schedule;

(e) Reducing the employee's rate of pay; and

(f) Threatening to take, or taking, action based upon the immigration status of an employee or an employee's family member.

Passed by the House April 13, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 253

[House Bill 1542]

INDUSTRIAL SAFETY—HIGH VOLTAGE LINES AND EQUIPMENT—AUTOMATED EXTERNAL DEFIBRILLATORS

AN ACT Relating to requiring automated external defibrillators to be available and accessible when work is being performed on high voltage lines and equipment; adding a new section to chapter 49.17 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 49.17 RCW to read as follows:

(1) Any employer with employees who operate, maintain, or construct high voltage lines and equipment or who conduct line-clearance tree trimming in close proximity to high voltage lines and equipment shall:

(a) Make an automated external defibrillator available and accessible to employees when work is being performed on, or in close proximity to, high voltage lines and equipment by two or more employees;

(b) Conduct regular maintenance and annual inspections of the automated external defibrillator to ensure operability and availability; and

(c) Provide training or facilitate the provision of training to ensure there are at least two employees proficient on the proper and safe use of the automated external defibrillator at any site involving work on, or in close proximity to, high voltage lines and equipment. To be considered proficient, an employee must have completed initial or updated training within the previous two years.

(2) For the purposes of this section, "high voltage lines and equipment" refers to any energized communication line, electric supply line, or equipment with a voltage of 601 or greater.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2025.

Passed by the House April 13, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 254

[House Bill 1563]

MEDICAL USE OF CANNABIS—CRIMINAL AND CIVIL PROTECTIONS

AN ACT Relating to arrest protections for the medical use of cannabis; amending RCW 69.51A.040, 69.51A.055, and 69.51A.060; and repealing RCW 69.51A.043.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 69.51A.040 and 2022 c 16 s 118 are each amended to read as follows:

The medical use of cannabis in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient or designated provider in compliance with the terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law, or have real or personal

property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law, and investigating law enforcement officers and agencies may not be held civilly liable for failure to seize cannabis in this circumstance, if:

(1)(a)(i) The qualifying patient or designated provider has been entered into the medical cannabis authorization database and holds a valid recognition card ((~~and~~)) or the qualifying patient or designated provider holds a valid authorization if the qualifying patient or designated provider has not been entered into the medical cannabis authorization database and has not been issued a recognition card, and the qualifying patient or designated provider possesses no more than the amount of cannabis concentrates, useable cannabis, plants, or cannabis-infused products authorized under RCW 69.51A.210.

(ii) If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in RCW 69.51A.210 for the qualifying patient and designated provider, whether the plants, cannabis concentrates, useable cannabis, or cannabis-infused products are possessed individually or in combination between the qualifying patient and his or her designated provider. However, in accordance with RCW 69.51A.260, no more than 15 plants may be grown or located in any one housing unit other than a cooperative established pursuant to RCW 69.51A.250;

(b) The qualifying patient or designated provider presents his or her recognition card or, if the qualifying patient or designated provider does not have a recognition card, then his or her authorization, to any law enforcement officer who questions the patient or provider regarding his or her medical use of cannabis;

(c) The qualifying patient or designated provider keeps a copy of his or her recognition card ((~~and~~)) if the qualifying patient or designated provider has a recognition card, or keeps a copy of his or her authorization if the qualifying patient or designated provider does not have a recognition card, and keeps a copy of the qualifying patient or designated provider's contact information posted prominently next to any plants, cannabis concentrates, cannabis-infused products, or useable cannabis located at his or her residence;

(d) The investigating law enforcement officer does not possess evidence that:

(i) The designated provider has converted cannabis produced or obtained for the qualifying patient for his or her own personal use or benefit; or

(ii) The qualifying patient sold, donated, or supplied cannabis to another person; and

(e) The designated provider has not served as a designated provider to more than one qualifying patient within a fifteen-day period; or

(2) The qualifying patient or designated provider participates in a cooperative as provided in RCW 69.51A.250.

Sec. 2. RCW 69.51A.055 and 2015 c 70 s 30 are each amended to read as follows:

(1)(a) The arrest and prosecution protections established in RCW 69.51A.040 may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including

local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(b) The affirmative ((~~defenses~~)) defense established in RCW ((~~69.51A.043 and~~)) 69.51A.045 may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(2) RCW 69.51A.040 does not apply to a person who is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision.

Sec. 3. RCW 69.51A.060 and 2022 c 16 s 122 are each amended to read as follows:

(1) It shall be a class 3 civil infraction to use or display medical cannabis in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter establishes a right of care as a covered benefit or requires any state purchased health care as defined in RCW 41.05.011 or other health carrier or health plan as defined in Title 48 RCW to be liable for any claim for reimbursement for the medical use of cannabis. Such entities may enact coverage or noncoverage criteria or related policies for payment or nonpayment of medical cannabis in their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of cannabis for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of cannabis in any place of employment, in any youth center, in any correctional facility, or smoking cannabis in any public place or hotel or motel.

(5) Nothing in this chapter authorizes the possession or use of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products on federal property.

(6) Nothing in this chapter authorizes the use of medical cannabis by any person who is subject to the Washington code of military justice in chapter 38.38 RCW.

(7) Employers may establish drug-free work policies. Nothing in this chapter requires an accommodation for the medical use of cannabis if an employer has a drug-free workplace.

(8) No person shall be entitled to claim the protection from arrest and prosecution under RCW 69.51A.040 ((~~or the affirmative defense under RCW 69.51A.043~~)) for engaging in the medical use of cannabis in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway, including violations of RCW 46.61.502 or 46.61.504, or equivalent local ordinances.

NEW SECTION. **Sec. 4.** RCW 69.51A.043 (Failure to enter into the medical cannabis authorization database—Affirmative defense) and 2022 c 16 s 119, 2015 c 70 s 25, & 2011 c 181 s 402 are each repealed.

Passed by the House March 3, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 255

[Substitute House Bill 1621]

LOCAL GOVERNMENT PROCUREMENT—VARIOUS PROVISIONS

AN ACT Relating to standardizing local government procurement rules among special purpose districts, first-class and second-class cities, and public utility districts; amending RCW 54.04.070, 35.23.352, 35.22.620, 57.08.050, and 52.14.110; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 54.04.070 and 2019 c 434 s 7 are each amended to read as follows:

(1) Any item, or items of the same kind of materials, equipment, or supplies purchased, the estimated cost of which is in excess of ((~~thirty thousand dollars~~)) $30,000, exclusive of sales tax, shall be by contract. However, a district may make purchases of the same kind of items of materials, equipment, and supplies not exceeding ((~~twelve thousand dollars~~)) $12,000 in any calendar month without a contract, purchasing any excess thereof over ((~~twelve thousand dollars~~)) $12,000 by contract.

(2) Any work ordered by a district commission, the estimated cost of which is in excess of ((~~fifty thousand dollars, exclusive of sales tax~~)) $150,000 exclusive of sales tax if more than a single craft or trade is involved with the public works project, or a public works project in excess of $75,500 exclusive of sales tax if only a single craft or trade is involved with the public works project, shall be by contract. However, a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding ((~~three hundred thousand dollars~~)) $300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(3) Before awarding a contract required under subsection (1) or (2) of this section, the commission shall publish a notice once or more in a newspaper of general circulation in the district at least ((~~thirteen~~)) 13 days before the last date upon which bids will be received, inviting sealed proposals for the work or materials. Plans and specifications for the work or materials shall at the time of publication be on file at the office of the district and subject to public inspection. Any published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may, at the same time and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by the bidders.

(4) As an alternative to the competitive bidding requirements of this section and RCW 54.04.080, a district may let contracts using the small works roster process under RCW 39.04.155.

(5) Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission, and may consider such price as a bid without a deposit or bond.

(6) Pursuant to RCW 39.04.280, the commission may waive the competitive bidding requirements of this section and RCW 54.04.080 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

(7)(a) A district may procure public works with a unit priced contract under this section, RCW 54.04.080, or 54.04.085 for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, unit priced contract means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of a district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Where electrical facility construction or improvement work is anticipated, contractors on a unit priced contract shall comply with the requirements under RCW 54.04.085 (1) through (5). Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

(8) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the district commission issues a written finding that the lowest bidder has delivered a project to the district within the last three years which was late, over budget, or did not meet specifications, and the commission does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the commission may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

Sec. 2. RCW 35.23.352 and 2019 c 434 s 1 are each amended to read as follows:

(1) Any second-class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of ((~~one hundred sixteen thousand one hundred fifty-five dollars~~)) $150,000 if more than one craft or trade is involved with the public works, or ((~~seventy-five thousand five hundred dollars~~)) $75,500 if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project. However, a second-class city or any town may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding $300,000 in value without a contract. This limit on value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For purposes of this section, "equipment" includes, but is not limited to, conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least ((~~thirteen~~)) 13 days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ((~~ten~~)) 10 days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the city issues a written finding that the lowest bidder has delivered a project to the city within the last three years which was late, over budget, or did not meet specifications, and the city does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the city may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

(3) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(4) In lieu of the procedures of subsection (1) of this section, a second-class city or a town may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the city or town shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(5) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of ((~~five thousand dollars~~)) $5,000 that are not let by contract.

(6) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(7) Any purchase of supplies, material, or equipment, except for public work or improvement, ((~~where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids~~)) with an estimated cost in excess of $40,000, shall be by contract. Any purchase of materials, supplies, or equipment with an estimated cost of less than $50,000 shall be made using the process provided in RCW 39.04.190.

(8) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(9) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of ((~~fifteen thousand dollars~~)) $15,000 or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(10) The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(11) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(((~~(4)~~))) (6), that are negotiated under chapter 39.35A RCW.

(12) Nothing in this section shall prohibit any second-class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(13)(a) Any second-class city or any town may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city or town, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city or town having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city or town will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city or town must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

(14) Any second-class city or town that awards a project to a bidder under the criteria described in subsection (2) of this section must make an annual report to the department of commerce that includes the total number of bids awarded to certified minority or women contractors and describing how notice was provided to potential certified minority or women contractors.

Sec. 3. RCW 35.22.620 and 2019 c 434 s 11 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first-class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first-class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ((~~ten~~)) 10 percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first-class city has a county perform for it under RCW 35.77.020 shall be included within this ((~~ten~~)) 10 percent limitation.

If a first-class city has public works performed by public employees in any budget period that are in excess of this ((~~ten~~)) 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted

amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first-class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first-class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first-class city shall not have public employees perform a public works project in excess of ((~~one hundred fifty thousand dollars~~)) $150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of ((~~seventy-five thousand five hundred dollars~~)) $75,500 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project. However, a first-class city may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding $300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For purposes of this section, the term "equipment" includes, but is not limited to, conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(4) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every first-class city annually may prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ((~~ten~~)) 10 percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ((~~ten~~)) 10 percent of the total biennial construction budget.

Each first-class city with a population of ((~~one hundred fifty thousand~~)) 150,000 or less shall use the form required by RCW 43.09.205 to account and

record costs of public works in excess of ((~~five thousand dollars~~)) $5,000 that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to RCW 39.04.280 if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first-class city may let contracts using the small works roster process in RCW 39.04.155.

Whenever possible, the city shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020((~~(4)~~)) (6), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first-class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(11)(a) Any first-class city may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

(12) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the city issues a written finding that the lowest bidder has delivered a project to the city within the last three years which was late, over budget, or did not meet specifications, and the city does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the city may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

Sec. 4. RCW 57.08.050 and 2019 c 434 s 10 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of ((~~fifty thousand dollars~~)) $150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of $75,500 if only a single craft or trade is involved with the public works project, shall be let by contract and competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once ((~~thirteen~~)) 13 days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ((~~ten~~)) 10 days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond

required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to requirements under subsection (1) of this section, a water-sewer district may let contracts using the small works roster process under RCW 39.04.155.

(3) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of ((~~forty thousand dollars~~)) $40,000, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of less than ((~~fifty thousand dollars~~)) $50,000 shall be made using the process provided in RCW 39.04.190. Any purchase of materials, supplies, or equipment with an estimated cost of ((~~fifty thousand dollars~~)) $50,000 or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(4) As an alternative to requirements under subsection (3) of this section, a water-sewer district may let contracts for purchase of materials, supplies, or equipment with the suppliers designated on current state agency, county, city, or town purchasing rosters for the materials, supplies, or equipment, when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town. The price and terms for purchases shall be as described on the applicable roster.

(5) The board may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(6)(a) A district may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids must include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the district must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit

priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

(7) A water-sewer district may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding $300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(8) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the district issues a written finding that the lowest bidder has delivered a project to the district within the last three years which was late, over budget, or did not meet specifications, and the district does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the district may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

Sec. 5. RCW 52.14.110 and 2019 c 434 s 12 are each amended to read as follows:

(1) Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

((~~(1)~~)) (a) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of ((~~forty thousand dollars~~)) $75,500. However, whenever the estimated cost does not exceed ((~~seventy-five thousand dollars~~)) $150,000, the commissioners may by resolution use the process provided in RCW 39.04.190 to award contracts;

((~~(2)~~)) (b) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of ((~~thirty thousand dollars, which includes the costs of labor, material, and equipment~~)) $150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of $75,500 if only a single craft or trade is involved with the public works project;

((~~(3)~~)) (c) Contracts using the small works roster process under RCW 39.04.155; and

((~~(4)~~)) (d) Any contract for purchases or public work pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(2) A fire protection district may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel

utilizing material of a worth not exceeding $300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(3) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the district issues a written finding that the lowest bidder has delivered a project to the district within the last three years which was late, over budget, or did not meet specifications, and the district does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the district may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

NEW SECTION. **Sec. 6.** The capital projects advisory review board shall review this act and make recommendations to the appropriate committees of the legislature by December 31, 2023.

NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act take effect June 30, 2024.

Passed by the House April 13, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 256

[House Bill 1684]

UNEMPLOYMENT INSURANCE—JOB TITLE REPORTING—TRIBES

AN ACT Relating to clarifying procedures for federally recognized tribes to report standard occupational classifications or job titles of workers under the employment security act; and amending RCW 50.12.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.12.070 and 2020 c 334 s 2 are each amended to read as follows:

(1)(a) Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he or she deems necessary for the effective administration of this title.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for and compensation paid to the person or entity performing the work. In addition to the penalty in subsection (3) of this section, failure to obtain or maintain the record is subject to RCW 39.06.010.

(2)(a)(i) Each employer shall register with the department and obtain an employment security account number. Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the full names and social security numbers of all such workers, the standard occupational classification or job title of each worker, and the total hours worked by each worker and such other information as the commissioner may by regulation prescribe. Reporting the standard occupational classification or job title of each worker is optional for employers until October 1, 2022.

(ii) A federally recognized tribe may elect to report the standard occupational classifications or job titles of workers. If a federally recognized tribe elects to report standard occupational classifications or job titles, it retains the option to opt out of reporting at any time for any reason it deems necessary. The department shall adopt rules to implement this subsection (2)(a)(ii).

(b) If the employing unit fails or has failed to report the number of hours in a reporting period for which a worker worked, such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such hours worked, the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the state's minimum wage in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: PROVIDED, That although the computation so made will not be subject to appeal by the employing unit, monetary entitlement may be redetermined upon request if the department is provided with credible evidence of the actual hours worked. Benefits paid using computed hours are not considered an overpayment and are not subject to collections when the correction of computed hours results in an invalid or reduced claim; however:

(i) A contribution paying employer who fails to report the number of hours worked will have its experience rating account charged for all benefits paid that are based on hours computed under this subsection; and

(ii) An employer who reimburses the trust fund for benefits paid to workers and fails to report the number of hours worked shall reimburse the trust fund for all benefits paid that are based on hours computed under this subsection.

(3) Any employer who fails to keep and preserve records required by this section shall be subject to a penalty determined by the commissioner but not to exceed two hundred fifty dollars or two hundred percent of the quarterly tax for each offense, whichever is greater.

Passed by the House March 7, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 257

[Engrossed Substitute House Bill 1731]

SHORT-TERM RENTAL OPERATORS—COMPLIMENTARY WINE BOTTLES

AN ACT Relating to complimentary liquor by short-term rental operators; and amending RCW 66.20.010 and 66.24.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 66.20.010 and 2019 c 112 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during

the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least ((~~eighteen~~)) 18 years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030, a regional university, or a state university;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, sommelier, wine business, enology, viticulture, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is ((~~twenty-one~~)) 21 years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages;

(f) The enrolled student permitted to taste the alcoholic beverages conducts the tasting either: (i) On the premises of the college or university at which the student is enrolled; or (ii) while on a field trip to a grape-growing area or

production facility so long as the enrolled student is accompanied by a faculty or staff member with a class 12 or 13 alcohol server permit who supervises as provided in (d) of this subsection and all other requirements of this subsection (12) are met; and

(g) The permit fee for the special permit provided for in this subsection (12) must be waived by the board;

(13) Where the application is for a special permit by a distillery or craft distillery for an event not open to the general public to be held or conducted at a specific place, including at the licensed premise of the applying distillery or craft distillery, upon a specific date for the purpose of tasting and selling spirits of its own production. The distillery or craft distillery must obtain a permit for a fee of ((~~ten dollars~~)) $10 per event. An application for the permit must be submitted for private banquet permits prior to the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No licensee may receive more than ((~~twelve~~)) 12 permits under this subsection (13) each year;

(14) Where the application is for a special permit by a manufacturer of wine for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling wine of its own production. The winery must obtain a permit for a fee of ((~~ten dollars~~)) $10 per event. An application for the permit must be submitted at least ten days before the event and once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than ((~~twelve~~)) 12 events per year may be held by a single manufacturer under this subsection;

(15) Where the application is for a special permit by a manufacturer of beer for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling beer of its own production. The brewery or microbrewery must obtain a permit for a fee of ((~~ten dollars~~)) $10 per event. An application for the permit must be submitted at least ((~~ten~~)) 10 days before the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than ((~~twelve~~)) 12 events per year may be held by a single manufacturer under this subsection;

(16) Where the application is for a special permit by an individual or business to sell a private collection of wine or spirits to an individual or business. The seller must obtain a permit at least five business days before the sale, for a fee of ((~~twenty-five dollars~~)) $25 per sale. The seller must provide an inventory of products sold and the agreed price on a form provided by the board. The seller shall submit the report and taxes due to the board no later than ((~~twenty~~)) 20 calendar days after the sale. A permit may be issued under this section to allow the sale of a private collection to licensees, but may not be issued to a licensee to sell to a private individual or business which is not otherwise authorized under the license held by the seller. If the liquor is purchased by a licensee, all sales are subject to taxes assessed as on liquor acquired from any other source. The board may adopt rules to implement this section;

(17)(a) A special permit, where the application is for a special permit by a nonprofit organization to sell wine through an auction, not open to the public, to

be conducted at a specific place, upon a specific date, and to allow wine tastings at the auction of the wine to be auctioned.

(b) A permit holder under this subsection (17) may at the specified event:

(i) Sell wine by auction for off-premises consumption; and

(ii) Allow tastings of samples of the wine to be auctioned at the event.

(c) An application is required for a permit under this subsection (17). The application must be submitted prior to the event and once issued must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use.

(d) Wine from more than one winery may be sold at the auction; however, each winery selling wine at the auction must be listed on the permit application. Only a single application form may be required for each auction, regardless of the number of wineries that are selling wine at the auction. The total fee per event for a permit issued under this subsection (17) is ((~~twenty-five dollars~~)) $25 multiplied by the number of wineries that are selling wine at the auction.

(e) For the purposes of this subsection (17), "nonprofit organization" means an entity incorporated as a nonprofit organization under Washington state law.

(f) The board may adopt rules to implement this section; and

(18) An annual special permit to allow a short-term rental operator to provide one complimentary bottle of wine to rental guests who are age 21 or over. The annual special permit fee is $75. A single permit applies to all rental properties owned or operated by the short-term rental operator and identified in the permit application. One complimentary bottle of wine per booking may be provided, regardless of the total number of rental guests. The provision of the complimentary bottle of wine may occur only after an operator or staff person of the short-term rental, who is present at the short-term rental property, verifies that each rental guest who will consume the complimentary bottle of wine is age 21 or over by checking a valid form of identification of each such rental guest at the time rental guests arrive. The rental guests must be informed the rental guests are being offered one complimentary bottle of wine and that opening or consuming the bottle of wine in a public place is illegal pursuant to RCW 66.44.100. The rental guests must not have notified the operator that the rental guests decline the complimentary bottle of wine. The complimentary bottle of wine may be consumed on the premises of the rental property or removed and consumed off the premises of the rental property. A permit holder may purchase wine from wine distributors in accordance with RCW 66.24.200, and from retailers and other suppliers of wine authorized under this title to sell wine at retail to consumers for off-premises consumption. For purposes of this subsection, the terms "short-term rental," "operator," and "guest" have the same meanings as in RCW 64.37.010.

Sec. 2. RCW 66.24.200 and 2004 c 160 s 2 are each amended to read as follows:

There shall be a license for wine distributors to sell wine, purchased from licensed Washington wineries, wine certificate of approval holders, licensed wine importers, or suppliers of foreign wine located outside of the United States, to licensed wine retailers ((~~and~~)), other wine distributors, and holders of annual special permits issued under RCW 66.20.010(18), and to export the same from the state; fee ((~~six hundred sixty dollars~~)) $660 per year for each distributing unit.

Passed by the House April 17, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 258

[House Bill 1742]

DEPARTMENT OF REVENUE—VARIOUS PROVISIONS—NONTAX STATUTES

AN ACT Relating to nontax statutes administered by the department of revenue by modifying provisions of the unclaimed property and business licensing service programs concerning penalty waivers, the department of revenue's express settlement authority, and making technical corrections; amending RCW 19.02.085, 19.150.060, 19.150.080, 19.240.080, 19.240.900, 59.18.312, 59.18.595, 63.30.040, 63.30.690, and 88.26.020; adding a new section to chapter 63.30 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.02.085 and 2020 c 139 s 3 are each amended to read as follows:

(1) To encourage timely renewal by applicants, a business license delinquency fee is imposed on licensees who fail to renew by the business license expiration date. The business license delinquency fee must be the lesser of ((~~one hundred fifty dollars~~)) $150 or ((~~fifty~~)) 50 percent of a base comprised of the licensee's renewal fee minus corporate licensing taxes, corporation annual report fee, and any interest fees or penalties charged for late taxes or corporate renewals. The business license delinquency fee must be added to the renewal fee and paid by the licensee before a business license is renewed. The delinquency fee must be deposited in the business license account.

(2) The department must waive or cancel the business license delinquency fee imposed in subsection (1) of this section only if ((~~the~~)):

(a) The department determines that the licensee failed to renew a license by the business license expiration date due to an undisputable error or failure by the department; or

(b) The licensee requests the waiver and has timely renewed all business licenses and paid the applicable business license fees for a period of 24 months immediately preceding the period covered by the renewal application for which the waiver is being requested.

(c) For purposes of this subsection, an error or failure is undisputable if the department is satisfied, beyond any doubt, that the error or failure occurred.

Sec. 2. RCW 19.150.060 and 2016 sp.s. c 6 s 1 are each amended to read as follows:

(1) If a notice has been sent, as required by RCW 19.150.040, and the total sum due has not been paid as of the date specified in the preliminary lien notice, the lien proposed by this notice attaches as of that date and the owner may deny an occupant access to the space, enter the space, inventory the goods therein, and remove any property found therein to a place of safe keeping. The owner must provide the occupant a notice of final lien sale or final notice of disposition by personal service, verified mail, or email to the occupant's last known address and alternative address or email address. If the owner sends notice required under this section to the occupant's last known email address and does not receive a

reply or receipt of delivery, the owner must send a second notice to the occupant's last known postal address by verified mail. The notice required under this section must state all of the following:

(a) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.

(b) That the stored property is subject to a lien, and the amount of the lien accrued and to accrue prior to the date required to be specified in (c) of this subsection.

(c) That all the property, other than personal papers and personal photographs, may be sold to satisfy the lien after a specified date which is not less than fourteen days from the last date of sending of the final lien sale notice, or a minimum of ((~~forty-two~~)) 42 days after the date when any part of the rent or other charges due from the occupants remain unpaid, whichever is later, unless the amount of the lien is paid. The owner is not required to sell the personal property within a maximum number of days of when the rent or other charges first became due. If the total value of property in the storage space is less than three hundred dollars, the owner may, instead of sale, dispose of the property in any reasonable manner, subject to the restrictions of RCW 19.150.080(4). After the sale or other disposition pursuant to this section has been completed, the owner shall provide an accounting of the disposition of the proceeds of the sale or other disposition to the occupant at the occupant's last known address and at the alternative address.

(d) That any stored vehicles, watercraft, trailers, recreational vehicles, or campers may be towed or removed from the self-service storage facility in lieu of sale pursuant to RCW 19.150.160.

(e) That any excess proceeds of the sale or other disposition under RCW 19.150.080(2) over the lien amount and reasonable costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of six months from the sale and that thereafter the proceeds will be turned over to the state as abandoned property as provided in ((~~RCW 63.29.165~~)) chapter 63.30 RCW.

(f) That any personal papers and personal photographs will be retained by the owner and may be reclaimed by the occupant at any time for a period of six months from the sale or other disposition of property and that thereafter the owner may dispose of the personal papers and photographs in a reasonable manner, subject to the restrictions of RCW 19.150.080(3).

(g) That the occupant has no right to repurchase any property sold at the lien sale.

(2) The owner may not send by email the notice required under this section to the occupant's last known address or alternative address unless:

(a) The occupant expressly agrees to notice by email;

(b) The rental agreement executed by the occupant specifies in bold type that notices will be given to the occupant by email;

(c) The owner provides the occupant with the email address from which notices will be sent and directs the occupant to modify his or her email settings to allow email from that address to avoid any filtration systems; and

(d) The owner notifies the occupant of any change in the email address from which notices will be sent prior to the address change.

Sec. 3. RCW 19.150.080 and 2007 c 113 s 5 are each amended to read as follows:

(1) After the expiration of the time given in the final notice of lien sale pursuant to RCW 19.150.060, the property, other than personal papers and personal photographs, may be sold or disposed of in a reasonable manner as provided in this section.

(2)(a) If the property has a value of three hundred dollars or more, the sale shall be conducted in a commercially reasonable manner, and, after applying the proceeds to costs of the sale and then to the amount of the lien, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at any time within six months of the date of sale.

(b) If the property has a value of less than three hundred dollars, the property may be disposed of in a reasonable manner.

(3) Personal papers and personal photographs that are not reclaimed by the occupant within six months of a sale under subsection (2)(a) of this section or other disposition under subsection (2)(b) of this section may be disposed of in a reasonable manner.

(4) No employee or owner, or family member of an employee or owner, may acquire, directly or indirectly, the property sold pursuant to subsection (2)(a) of this section or disposed of pursuant to subsection (2)(b) of this section, or personal papers and personal photographs disposed of under subsection (3) of this section.

(5) The owner is entitled to retain any interest earned on the excess proceeds until the excess proceeds are claimed by another person or are turned over to the state as abandoned property pursuant to ((~~RCW 63.29.165~~)) chapter 63.30 RCW.

Sec. 4. RCW 19.240.080 and 2004 c 168 s 9 are each amended to read as follows:

An issuer is not required to honor a gift certificate presumed abandoned under ((~~RCW 63.29.110~~)) chapter 63.30 RCW, if reported((~~,~~)) and delivered to the department of revenue in the dissolution of a business association.

Sec. 5. RCW 19.240.900 and 2004 c 168 s 18 are each amended to read as follows:

Sections 1 through 12 of this act apply to:

(1) Gift certificates issued on or after July 1, 2004; and

(2) Those gift certificates presumed abandoned on or after July 1, 2004, and not reported as provided in ((~~RCW 63.29.170(4)~~)) chapter 63.30 RCW.

Sec. 6. RCW 59.18.312 and 2011 c 132 s 17 are each amended to read as follows:

(1) A landlord shall, upon the execution of a writ of restitution by the sheriff, enter and take possession of any property of the tenant found on the premises. The landlord may store the property in any reasonably secure place, including the premises, and sell or dispose of the property as provided under subsection (3) of this section. The landlord must store the property if the tenant serves a written request to do so on the landlord or the landlord's representative by any of the methods described in RCW 59.18.365 no later than three days after service of the writ. A landlord may elect to store the property without such a

request unless the tenant or the tenant's representative objects to the storage of the property. If the tenant or the tenant's representative objects to the storage of the property or the landlord elects not to store the property because the tenant has not served a written request on the landlord to do so, the property shall be deposited upon the nearest public property and may not be stored by the landlord. If the landlord knows that the tenant is a person with a disability as defined in RCW 49.60.040 (as amended by chapter 317, Laws of 2007) and the disability impairs or prevents the tenant or the tenant's representative from making a written request for storage, it must be presumed that the tenant has requested the storage of the property as provided in this section unless the tenant objects in writing.

(2) Property stored under this section shall be returned to the tenant after the tenant has paid the actual or reasonable drayage and storage costs, whichever is less, or until it is sold or disposed of by the landlord in accordance with subsection (3) of this section.

(3) Prior to the sale of property stored pursuant to this section with a cumulative value of over ((~~two hundred fifty dollars~~)) $250, the landlord shall notify the tenant of the pending sale. After ((~~thirty~~)) 30 days from the date the notice of the sale is mailed or personally delivered to the tenant's last known address, the landlord may sell the property, including personal papers, family pictures, and keepsakes, and dispose of any property not sold.

If the property that is being stored has a cumulative value of ((~~two hundred fifty dollars~~)) $250 or less, then the landlord may sell or dispose of the property in the manner provided in this section, except for personal papers, family pictures, and keepsakes. Prior to the sale or disposal of property stored pursuant to this section with a cumulative value of ((~~two hundred fifty dollars~~)) $250 or less, the landlord shall notify the tenant of the pending sale or disposal. The notice shall either be mailed to the tenant's last known address or personally delivered to the tenant. After seven days from the date the notice is mailed or delivered to the tenant, the landlord may sell or dispose of the property.

The landlord may apply any income derived from the sale of the tenant's property against moneys due the landlord for drayage and storage of the property. The amount of sale proceeds that the landlord may apply towards such costs may not exceed the actual or reasonable costs for drayage and storage of the property, whichever is less. Any excess income derived from the sale of such property shall be held by the landlord for the benefit of the tenant for a period of one year from the date of the sale. If no claim is made or action commenced by the tenant for the recovery of the excess income prior to the expiration of that period of time, then the balance shall be treated as abandoned property and deposited by the landlord with the department of revenue pursuant to chapter ((~~63.29~~)) 63.30 RCW.

(4) Nothing in this section shall be construed as creating a right of distress for rent.

(5) When serving a tenant with a writ of restitution pursuant to RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice to the tenant that: (a) Upon execution of the writ, the landlord must store the tenant's property only if the tenant serves a written request on the landlord to do so no later than three days after service of the writ; (b) the notice to the landlord requesting storage may be served by personally delivering or mailing a copy of the request

to the landlord at the address identified in, or by facsimile to the facsimile number listed on, the form described under subsection (6) of this section; (c) if the tenant has not made such a written request to the landlord, the landlord may elect to either store the tenant's property or place the tenant's property on the nearest public property unless the tenant objects; (d) if the property is stored, it may not be returned to the tenant unless the tenant pays the actual or reasonable costs of drayage and storage, whichever is less, within ((~~thirty~~)) 30 days; (e) if the tenant or the tenant's representative objects to storage of the property, it will not be stored but will be placed on the nearest public property; and (f) the landlord may sell or otherwise dispose of the property as provided in subsection (3) of this section if the landlord provides written notice to the tenant first.

(6) When serving a tenant with a writ of restitution under subsection (5) of this section, the sheriff shall also serve the tenant with a form provided by the landlord that can be used to request the landlord to store the tenant's property, which must be substantially in the following form:

REQUEST FOR STORAGE OF PERSONAL PROPERTY

. . . . . .
Name of Plaintiff

. . . . . .
Name(s) of Tenant(s)

I/we hereby request the landlord to store our personal property. I/we understand that I/we am/are responsible for the actual or reasonable costs of moving and storing the property, whichever is less. If I/we fail to pay these costs, the landlord may sell or dispose of the property pursuant to and within the time frame permitted under RCW 59.18.312(3).

Any notice of sale required under RCW 59.18.312(3) must be sent to the tenants at the following address:

. . . . . .
. . . . . .
. . . . . .

IF NO ADDRESS IS PROVIDED, NOTICE OF SALE WILL BE SENT TO THE LAST KNOWN ADDRESS OF THE TENANT(S)

Dated: . . . . . .

. . . . . .
Tenant-Print Name

. . . . . .
Tenant-Print Name

This notice may be delivered or mailed to the landlord or the landlord's representative at the following address:

. . . . . .
. . . . . .
. . . . . .

This notice may also be served by facsimile to the landlord or the landlord's representative at:

. . . . . .
Facsimile Number

IMPORTANT

IF YOU WANT YOUR LANDLORD TO STORE YOUR PROPERTY, THIS WRITTEN REQUEST MUST BE RECEIVED BY THE LANDLORD NO LATER THAN THREE (3) DAYS AFTER THE SHERIFF SERVES THE WRIT OF RESTITUTION. YOU SHOULD RETAIN PROOF OF SERVICE.

Sec. 7. RCW 59.18.595 and 2015 c 264 s 3 are each amended to read as follows:

(1) In the event of the death of a tenant who is the sole occupant of the dwelling unit:

(a) The landlord, upon learning of the death of the tenant, shall promptly mail or personally deliver written notice to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the address of the dwelling unit. If the landlord knows of any address used for the receipt of electronic communications, the landlord shall email the notice to that address as well. The notice must include:

(i) The name of the deceased tenant and address of the dwelling unit;

(ii) The approximate date of the deceased tenant's death;

(iii) The rental amount and date through which rent is paid;

(iv) A statement that the tenancy will terminate ((~~fifteen~~)) 15 days from the date the notice is mailed or personally delivered or the date through which rent is paid, whichever comes later, unless during that time period a tenant representative makes arrangements with the landlord to pay rent in advance for no more than ((~~sixty~~)) 60 days from the date of the tenant's death to allow a tenant representative to arrange for orderly removal of the tenant's property. At the end of the period for which the rent has been paid pursuant to this subsection, the tenancy ends;

(v) A statement that failure to remove the tenant's property before the tenancy is terminated or ends as provided in (a)(iv) of this subsection will allow the landlord to enter the dwelling unit and take possession of any property found on the premises, store it in a reasonably secure place, and charge the actual or reasonable costs, whichever is less, of drayage and storage of the property, and after service of a second notice sell or dispose of the property as provided in subsection (3) of this section; and

(vi) A copy of any designation executed by the tenant pursuant to RCW 59.18.590;

(b) The landlord shall turn over possession of the tenant's property to a tenant representative if a request is made in writing within the specified time period or any subsequent date agreed to by the parties;

(c) Within ((~~fourteen~~)) 14 days after the removal of the property by the tenant representative, the landlord shall refund any unearned rent and shall give a full and specific statement of the basis for retaining any deposit together with the payment of any refund due the deceased tenant under the terms and conditions of the rental agreement to the tenant representative; and

(d) Any tenant representative who removes property from the tenant's dwelling unit or the premises must, at the time of removal, provide to the landlord an inventory of the removed property and signed acknowledgment that he or she has only been given possession and not ownership of the property.

(2) A landlord shall send a second written notice before selling or disposing of a deceased tenant's property.

(a) If the tenant representative makes arrangements with the landlord to pay rent in advance as provided in subsection (1)(a)(iv) of this section, the landlord shall mail a second written notice to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the dwelling unit. The second notice must include:

(i) The name, address, and phone number or other contact information for the tenant representative, if known, who made the arrangements to pay rent in advance;

(ii) The amount of rent paid in advance and date through which rent was paid; and

(iii) A statement that the landlord may sell or dispose of the property on or after the date through which rent is paid or at least ((~~forty-five~~)) 45 days after the second notice is mailed, whichever comes later, if a tenant representative does not claim and remove the property in accordance with this subsection.

(b) If the landlord places the property in storage pursuant to subsection (1)(a) of this section, the landlord shall mail a second written notice, unless a written notice under (a) of this subsection has already been provided, to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the dwelling unit. The second notice must state that the landlord may sell or dispose of the property on or after a specified date that is at least ((~~forty-five~~)) 45 days after the second notice is mailed if a tenant representative does not claim and remove the property in accordance with this subsection.

(c) The landlord shall turn over possession of the tenant's property to a tenant representative if a written request is made within the applicable time periods after the second notice is mailed, provided the tenant representative: (i) Pays the actual or reasonable costs, whichever is less, of drayage and storage of the property, if applicable; and (ii) gives the landlord an inventory of the

property and signs an acknowledgment that he or she has only been given possession and not ownership of the property.

(d) Within ((~~fourteen~~)) 14 days after the removal of the property by the tenant representative, the landlord shall refund any unearned rent and shall give a full and specific statement of the basis for retaining any deposit together with the payment of any refund due the deceased tenant under the terms and conditions of the rental agreement to the tenant representative.

(3)(a) If a tenant representative has not contacted the landlord or removed the deceased tenant's property within the applicable time periods under this section, the landlord may sell or dispose of the deceased tenant's property, except for personal papers and personal photographs, as provided in this subsection.

(i) If the landlord reasonably estimates the fair market value of the stored property to be more than ((~~one thousand dollars~~)) $1,000, the landlord shall arrange to sell the property in a commercially reasonable manner and may dispose of any property that remains unsold in a reasonable manner.

(ii) If the value of the stored property does not meet the threshold provided in (a)(i) of this subsection, the landlord may dispose of the property in a reasonable manner.

(iii) The landlord may apply any income derived from the sale of the property pursuant to this section against any costs of sale and moneys due the landlord, including actual or reasonable costs, whichever is less, of drayage and storage of the deceased tenant's property. Any excess income derived from the sale of such property under this section must be held by the landlord for a period of one year from the date of sale, and if no claim is made for recovery of the excess income before the expiration of that one-year period, the balance must be treated as abandoned property and deposited by the landlord with the department of revenue pursuant to chapter ((~~63.29~~)) 63.30 RCW.

(b) Personal papers and personal photographs that are not claimed by a tenant representative within ((~~ninety~~)) 90 days after a sale or other disposition of the deceased tenant's other property shall be either destroyed or held for the benefit of any successor of the deceased tenant as defined in RCW 11.62.005.

(c) No landlord or employee of a landlord, or his or her family members, may acquire, directly or indirectly, the property sold pursuant to (a)(i) of this subsection or disposed of pursuant to (a)(ii) of this subsection.

(4) Upon learning of the death of the tenant, the landlord may enter the deceased tenant's dwelling unit and immediately dispose of any perishable food, hazardous materials, and garbage found on the premises and turn over animals to a tenant representative or to an animal control officer, humane society, or other individual or organization willing to care for the animals.

(5) Any notices sent by the landlord under this section must include a mailing address, any address used for the receipt of electronic communications, and a telephone number of the landlord.

(6) If a landlord knowingly violates this section, the landlord is liable to the deceased tenant's estate for actual damages. The prevailing party in any action pursuant to this subsection may recover costs and reasonable attorneys' fees.

(7) A landlord who complies with this section is relieved from any liability relating to the deceased tenant's property.

Sec. 8. RCW 63.30.040 and 2022 c 225 s 201 are each amended to read as follows:

Subject to RCW 63.30.120, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

(1) A traveler's check, 15 years after issuance;

(2) A money order, five years after issuance;

(3) A state or municipal bond, bearer bond, or original issue discount bond, three years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;

(4) A debt of a business association, three years after the obligation to pay arises;

(5) A demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the later of maturity, if applicable, of the deposit or the owner's last indication of interest in the deposit, except a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

(6) Money or a credit owed to a customer as a result of a retail business transaction, three years after the obligation arose;

(7) An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, as follows:

(a) With respect to an amount owed on a life or endowment insurance policy, three years after the earlier of the date:

(i) The insurance company has knowledge of the death of the insured; or

(ii) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and

(b) With respect to an amount owed on an annuity contract, three years after the date the insurance company has knowledge of the death of the annuitant;

(8) Property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

(9) Property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;

(10) Property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one year after the property becomes distributable;

(11) Wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, one year after the amount becomes payable;

(12) A deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable; ((~~and~~))

(13) Payroll card, one year after the amount becomes payable; ((~~and~~))

(14) Excess proceeds from the sale of property by an owner of a self-service storage facility conducted pursuant to RCW 19.150.080, six months from the date of sale;

(15) Excess income from the sale of tenant property by a landlord conducted pursuant to RCW 59.18.312 and RCW 59.18.595, one year from the date of the sale;

(16) Excess funds from the sale of an abandoned vessel by an operator of a private moorage facility conducted pursuant to RCW 88.26.020, one year from the date of the sale; and

(17) Property not specified in this section or RCW 63.30.050 through 63.30.100, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

Sec. 9. RCW 63.30.690 and 2022 c 225 s 1013 are each amended to read as follows:

(1) A person who fails to pay or deliver property when due is required to pay to the administrator interest at the rate as computed under RCW 82.32.050(1)(c) and set under RCW 82.32.050(2). However, the administrator must waive or cancel interest imposed under this subsection if:

(a) The administrator finds that the failure to pay or deliver the property within the time prescribed by this chapter was the result of circumstances beyond the person's control sufficient for waiver or cancellation of interest under RCW 82.32.105;

(b) The failure to timely pay or deliver the property within the time prescribed by this chapter was the direct result of written instructions given to the person by the administrator; or

(c) The extension of a due date for payment or delivery under an assessment issued by the administrator was not at the person's request and was for the sole convenience of the administrator.

(2) If a person fails to file any report or to pay or deliver any amounts or property when due under a report required under this chapter, there is assessed a penalty equal to 10 percent of the amount unpaid and the value of any property not delivered.

(3) If an examination results in an assessment for amounts unpaid or property not delivered, there is assessed a penalty equal to 10 percent of the amount unpaid and the value of any property not delivered.

(4) If a person fails to pay or deliver to the administrator by the due date any amounts or property due under an assessment issued by the administrator to the person, there is assessed an additional penalty of five percent of the amount unpaid and the value of any property not delivered.

(5) If a holder makes a fraudulent report under this chapter, the administrator may require the holder to pay the administrator, in addition to interest under this section, a civil penalty of $1,000 for each day from the date the report was made until corrected, up to a cumulative maximum amount of $25,000, plus 25 percent of the amount or value of any property that should have been reported or was underreported.

(6) Penalties under subsections (2) through (4) of this section may be waived or canceled only if ((~~the~~)):

(a) The administrator finds that the failure to pay or deliver within the time prescribed by this chapter was the result of circumstances beyond the person's control sufficient for waiver or cancellation of penalties under RCW 82.32.105; or

(b) The person requests the waiver for a report required to be filed under RCW 63.30.220 and has timely filed as provided by RCW 63.30.240 all reports due under RCW 63.30.220 and paid or delivered all property associated with

those reports for a period of 24 months immediately preceding the period covered by the report for which the waiver is being requested.

(7) If a person willfully fails to file a report or to provide written notice to apparent owners as required under this chapter, the administrator may assess a civil penalty of $100 for each day the report is withheld or the notice is not sent, but not more than $5,000.

(8) If a holder, having filed a report, failed to file the report electronically as required by RCW ((~~63.29.170~~)) 63.30.220, or failed to pay electronically any amounts due under the report as required by RCW ((~~63.29.190~~)) 63.30.340, the administrator must assess a penalty equal to five percent of the amount payable or deliverable under the report, unless the administrator grants the taxpayer relief from the electronic filing and payment requirements. Total penalties assessed under this subsection may not exceed five percent of the amount payable and value of property deliverable under the report.

(9) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the administrator may require the holder to pay the administrator, in addition to interest as provided in this section, a civil penalty of $1,000 for each day the obligation is evaded or the duty not performed, up to a cumulative maximum amount of $25,000, plus 25 percent of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.

(10) The penalties imposed in this section are cumulative.

Sec. 10. RCW 88.26.020 and 2013 c 291 s 41 are each amended to read as follows:

(1) Any private moorage facility operator may take reasonable measures, including the use of chains, ropes, and locks, or removal from the water, to secure vessels within the private moorage facility so that the vessels are in the possession and control of the operator and cannot be removed from the facility. These procedures may be used if an owner mooring or storing a vessel at the facility fails, after being notified that charges are owing and of the owner's right to commence legal proceedings to contest that such charges are owing, to pay charges owed or to commence legal proceedings. Notification shall be by two separate letters, one sent by first-class mail and one sent by registered mail to the owner and any lienholder of record at the last known address. In the case of a transient vessel, or where no address was furnished by the owner, the operator need not give notice prior to securing the vessel. At the time of securing the vessel, an operator shall attach to the vessel a readily visible notice. The notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the notice was attached;

(b) A statement that if the account is not paid in full within ((~~ninety~~)) 90 days from the time the notice is attached the vessel may be sold at public auction to satisfy the charges; and

(c) The address and telephone number where additional information may be obtained concerning release of the vessel.

After a vessel is secured, the operator shall make a reasonable effort to notify the owner and any lienholder of record by registered mail in order to give the owner the information contained in the notice.

(2) A private moorage facility operator, at his or her discretion, may move moored vessels ashore for storage within properties under the operator's control or for storage with a private person under their control as bailees of the private moorage facility, if the vessel is, in the opinion of the operator, a nuisance, in danger of sinking or creating other damage, or is owing charges. The costs of any such procedure shall be paid by the vessel's owner.

(3) If a vessel is secured under subsection (1) of this section or moved ashore under subsection (2) of this section, the owner who is obligated to the private operator for charges may regain possession of the vessel by:

(a) Making arrangements satisfactory with the operator for the immediate removal of the vessel from the facility or for authorized moorage; and

(b) Making payment to the operator of all charges, or by posting with the operator a sufficient cash bond or other acceptable security, to be held in trust by the operator pending written agreement of the parties with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, or after the parties reach agreement with respect to payment, the trust shall terminate and the operator shall receive so much of the bond or other security as agreed, or as is necessary, to satisfy any judgment, costs, and interest as may be awarded to the operator. The balance shall be refunded immediately to the owner at the last known address.

(4) If a vessel has been secured by the operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ((~~ninety~~)) 90 days after notifying or attempting to notify the owner under subsection (1) of this section, the vessel is conclusively presumed to have been abandoned by the owner.

(5) If a vessel moored or stored at a private moorage facility is abandoned, the operator may authorize the public sale of the vessel by authorized personnel, consistent with this section, to the highest and best bidder for cash as follows:

(a) Before the vessel is sold, the vessel owner and any lienholder of record shall be given at least ((~~twenty~~)) 20 days' notice of the sale in the manner set forth in subsection (1) of this section if the name and address of the owner is known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of charges owed with respect to the vessel. The notice of sale shall be published at least once, more than ((~~ten~~)) 10 but not more than ((~~twenty~~)) 20 days before the sale, in a newspaper of general circulation in the county in which the facility is located. This notice shall include the name of the vessel, if any, the last known owner and address, and a reasonable description of the vessel to be sold. The operator may bid all or part of its charges at the sale and may become a purchaser at the sale.

(b) Before the vessel is sold, any person seeking to redeem an impounded vessel under this section may commence a lawsuit in the superior court for the county in which the vessel was impounded to contest the validity of the impoundment or the amount of charges owing. This lawsuit must be commenced within ((~~sixty~~)) 60 days of the date the notification was provided under subsection (1) of this section, or the right to a hearing is deemed waived and the owner is liable for any charges owing the operator. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(c) The proceeds of a sale under this section shall be applied first to the payment of any liens superior to the claim for charges, then to payment of the charges, then to satisfy any other liens on the vessel in the order of their priority. The balance, if any, shall be paid to the owner. If the owner cannot in the exercise of due diligence be located by the operator within one year of the date of the sale, the excess funds from the sale shall revert to the department of revenue under chapter ((~~63.29~~)) 63.30 RCW. If the sale is for a sum less than the applicable charges, the operator is entitled to assert a claim for deficiency, however, the deficiency judgment shall not exceed the moorage fees owed for the previous six-month period.

(d) In the event no one purchases the vessel at a sale, or a vessel is not removed from the premises or other arrangements are not made within ((~~ten~~)) 10 days of sale, title to the vessel will revert to the operator.

(e) Either a minimum bid may be established or a letter of credit may be required from the buyer, or both, to discourage the future abandonment of the vessel.

(6) The rights granted to a private moorage facility operator under this section are in addition to any other legal rights an operator may have to hold and sell a vessel and in no manner does this section alter those rights, or affect the priority of other liens on a vessel.

NEW SECTION. **Sec. 11.** A new section is added to chapter 63.30 RCW to read as follows:

(1) The department may enter into an agreement in writing with any holder with respect to any duties under this chapter or any property or amounts due under this chapter, including penalties and interest.

(2) Upon its execution by all parties, the agreement is final and conclusive as to the periods, property, and any other matters expressly covered by the agreement. Except upon a showing of fraud or malfeasance, or of misrepresentation of a material fact:

(a) The agreement may not be reopened as to the matters agreed upon, nor may the agreement be modified, by any officer, employee, or agent of the state, or the holder; and

(b) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, or refund, or credit made in accordance with the agreement, may not be annulled, modified, set aside, or disregarded.

(3) No agreement under this section may affect a holder's obligations to an owner or an owner's rights against a holder, except as expressly provided in RCW 63.30.350.

(4) No agreement under this section may include any indemnification of any holder for amounts or property that has not been paid or delivered to the department. Nothing in this subsection may be construed to affect the finality and conclusiveness of any agreement under this section to the extent provided in subsection (2) of this section.

NEW SECTION. **Sec. 12.** Sections 2 through 8, 10, and 11 of this act apply both prospectively and retroactively to January 1, 2023.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House March 3, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 259

[House Bill 1771]

MANUFACTURED/MOBILE HOME PARKS—RELOCATION ASSISTANCE PROGRAM—MODIFICATION

AN ACT Relating to relocation assistance for tenants of closed or converted manufactured/mobile home parks; and amending RCW 59.21.010, 59.21.021, and 59.21.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 59.21.010 and 2019 c 390 s 2 are each amended to read as follows:

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

(1) "Assignee" means an individual or entity who has agreed to advance allowable relocation assistance expenses in exchange for the assignment and transfer of a right to reimbursement from the fund.

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

(3) "Director" means the director of the department of commerce.

(4) "Fund" means the manufactured/mobile home park relocation fund established under RCW 59.21.050.

(5) "Landlord" or "park-owner" means the owner of the manufactured/mobile home park that is being closed at the time relocation assistance is provided.

(6) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than ((~~eighty~~)) 80 percent of the median family income, adjusted for household size, for the county where the manufactured/mobile home is located.

(7) "Manufactured/mobile home park" or "park" means real property that is rented or held out for rent to others for the placement of two or more manufactured/mobile homes for the primary purpose of production of income, except where the real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy.

(8) "Relocate" means to do one of the following:

(a) Remove a manufactured/mobile home from a manufactured/mobile home park being closed and reinstall it in another location; ((~~or~~))

(b) Remove a manufactured/mobile home from a manufactured/mobile home park being closed and demolish and dispose of it and secure other housing; or

(c) Remove a manufactured/mobile home from a manufactured/mobile home park being closed by selling or gifting the home to a third party and secure other housing.

(9) "Relocation assistance" means the monetary assistance provided under this chapter, including reimbursement for the costs of relocation as well as cash assistance provided to allow the tenant to secure new housing.

(10) "Tenant" means a person that owns a manufactured/mobile home located on a rented lot in a manufactured/mobile home park.

(11) "Third party" means a person or persons who purchase or are gifted a tenant's home, with the condition they are responsible for removing the home on or prior to the park closure date and relocate the home under subsection (8)(a) or (b) of this section. The third party is not entitled to relocation assistance related to relocation of the purchased or gifted home.

Sec. 2. RCW 59.21.021 and 2021 c 28 s 2 are each amended to read as follows:

(1) If a manufactured/mobile home park is, or is scheduled to be((~~[,]~~)), closed or converted to another use, eligible tenants shall be entitled to relocation assistance on a first-come, first-serve basis. The department shall give priority for distribution of relocation assistance to eligible tenants residing in parks that are closed as a result of park-owner fraud or as a result of health and safety concerns as determined by the local board of health. Payments shall be made upon the department's verification of eligibility, subject to the availability of remaining funds.

(2) Eligibility for relocation assistance funds is limited to low-income households in manufactured/mobile home parks that are, or are scheduled to be, closed or converted to another use.

(3) Eligible tenants are entitled to financial assistance from the fund, up to a maximum of $17,000 for a multisection home and up to a maximum of $11,000 for a single-section home. The department shall distribute relocation assistance for each eligible tenant as follows:

(a) $12,000 for a multisection home and $8,000 for a single-section home shall be disbursed in the form of cash assistance to help the tenant relocate the home or secure alternative housing; and

(b) The remainder of the total assistance shall be disbursed once the tenant has transferred the title to the park-owner, relocated the home, or demolished and disposed of the home. The tenant must either transfer title of the manufactured/mobile home to the park-owner, relocate, or demolish and dispose of the home ((~~within 90 days of receiving the assistance under (a) of this subsection~~)) by the park closure date to receive the remainder of the assistance. A tenant who removes the tenant's home on or before the park closure date and reinstalls the home in another location within 12 months after the closure date is eligible to receive the remainder of the assistance.

(4) In the event that the tenant does not relocate or demolish and dispose of the home ((~~within 90 days of receiving assistance from the fund~~)) by the park closure date, the park-owner may seek reimbursement from the fund in the amount of $4,000 for a multisection home and $2,500 for a single-section home.

(a) To receive such reimbursement, the park-owner must provide documentation to the department demonstrating costs incurred for demolition and disposal of the home.

(b) The park-owner may seek reimbursement for additional costs incurred for demolition and disposal of the home up to an additional $4,500 for a multisection home and $3,000 for a single-section home from the portion of the

relocation fund to which park-owners must contribute pursuant to RCW 59.30.050.

(5) Any individual or organization may apply to receive relocation assistance from the fund, for use in combination with funds from public or private sources, toward relocation of tenants eligible under this section, with agreement from the tenant.

(6) The legislature intends the cash assistance provided under subsection (3) of this section to be considered a one-time direct grant payment that shall be excluded from household income calculations for purposes of determining the eligibility of the recipient for benefits or assistance under any state program financed in whole or in part with state funds.

Sec. 3. RCW 59.21.040 and 1998 c 124 s 4 are each amended to read as follows:

A tenant is not entitled to relocation assistance under this chapter if: (1) The tenant has given notice to the landlord of his or her intent to vacate the park and terminate the tenancy before any written notice of closure pursuant to RCW 59.20.080(1)(e) has been given; (2) the tenant purchased a mobile home already situated in the park or moved a mobile home into the park after a written notice of closure pursuant to RCW 59.20.090 has been given and the person received actual prior notice of the change or closure; or (3) the tenant receives assistance from an outside source that exceeds the maximum amounts of assistance to which a person is entitled under RCW 59.21.021(3), except that a tenant receiving relocation assistance from a landlord pursuant to RCW 59.20.080 remains eligible for the maximum amounts of assistance under this chapter. However, no tenant may be denied relocation assistance under subsection (1) of this section if the tenant has remained on the premises and continued paying rent for a period of at least six months after giving notice of intent to vacate and before receiving formal notice of a closure or change of use.

Passed by the House April 14, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 260

[House Bill 1775]

SALMON RECOVERY PROJECTS—CIVIL LIABILITY—REGIONAL FISHERIES ENHANCEMENT GROUPS

AN ACT Relating to limiting liability for salmon recovery projects performed by regional fisheries enhancement groups; and amending RCW 77.85.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 77.85.050 and 2013 c 194 s 1 are each amended to read as follows:

(1)(a) Counties, cities, and tribal governments must jointly designate, by resolution or by letters of support, the area for which a habitat project list is to be developed and the lead entity that is to be responsible for submitting the habitat project list. No project included on a habitat project list shall be considered mandatory in nature and no private landowner may be forced or coerced into

participation in any respect. The lead entity may be a county, city, conservation district, special district, tribal government, regional recovery organization, or other entity.

(b) The lead entity shall establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. The purpose of the committee is to provide a citizen-based evaluation of the projects proposed to promote salmon habitat.

(c) The committee shall compile a list of habitat projects, establish priorities for individual projects, define the sequence for project implementation, and submit these activities as the habitat project list. The committee shall also identify potential federal, state, local, and private funding sources.

(2) The area covered by the habitat project list must be based, at a minimum, on a WRIA, combination of WRIAs, or any other area as agreed to by the counties, cities, and tribes in resolutions or in letters of support meeting the requirements of this subsection. Preference will be given to projects in an area that contain a salmon species that is listed or proposed for listing under the federal endangered species act.

(3) The lead entity shall submit the habitat project list to the salmon recovery funding board in accordance with procedures adopted by the board.

(4) The recreation and conservation office shall administer funding to support the functions of lead entities.

(5) ((~~A~~)) Except as provided in subsection (6) of this section, a landowner whose land is used for a habitat project that is included on a habitat project list, and who has received notice from the project sponsor that the conditions of this section have been met, or a regional fisheries enhancement group authorized under RCW 77.95.060 performing habitat restoration activities under this chapter, may not be held civilly liable for any property damages resulting from the habitat project regardless of whether or not the project was funded by the salmon recovery funding board. This subsection is subject to the following conditions:

(a) The project was designed by a licensed professional engineer (PE) or a licensed geologist (LG, LEG, or LHG) with experience in riverine restoration;

(b) The project is designed to withstand ((~~one hundred~~)) 100 year floods;

(c) The project is not located within one-quarter mile of an established downstream boat launch;

(d) The project is designed to allow adequate response time for in-river boaters to safely evade in-stream structures; and

(e) If the project includes large wood placement, each individual root wad and each log larger than ten feet long and one foot in diameter must be visibly tagged with a unique numerical identifier that will withstand typical river conditions for at least three years.

(6) A regional fisheries enhancement group performing habitat restoration activities under this chapter may not be held civilly liable for any property damage resulting from a habitat project performed subject to the conditions specified under subsection (5) of this section unless the damage is due to acts or omissions constituting gross negligence or willful or wanton misconduct.

Passed by the House April 14, 2023.

Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 261

[Second Substitute Senate Bill 5046]
INDIGENT DEFENSE—POSTCONVICTION ACCESS

AN ACT Relating to postconviction access to counsel; amending RCW 2.70.020; creating new sections; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that Washington authorizes personal restraint petitions to challenge potentially unjust criminal judgments and sentences, a procedural safeguard dating back to medieval common law. The legislature further recognizes that recent statutory amendments and Washington supreme court decisions allow thousands of persons impacted by injustices in the criminal legal system to pursue resentencing.

The legislature observes that wealthy people retain attorneys to represent them in these complex, high-stakes postconviction legal proceedings. However, at least 80 percent of persons charged with felonies are indigent and cannot afford to hire a lawyer. In addition, nearly 40 percent of incarcerated persons have a cognitive or physical disability that would limit their capacity to access or understand critical legal documents, draft required petitions, or otherwise effectively represent themselves pro se in legal proceedings. Up to 70 percent of persons in prison cannot read above a fourth-grade level.

The legislature finds that the criminal legal system disproportionately incarcerates people of color, and that most people in prison are poor and the poorest are women and people of color. The legislature further finds that current law may have the effect of limiting access to counsel to initiate legitimate claims for postconviction relief. The legislature believes this situation perpetuates and exacerbates the disparate impacts of the criminal legal systems on poor persons and persons of color.

The legislature therefore declares that indigent incarcerated persons would benefit from access to public defense counsel to advise, initiate, and execute certain postconviction procedures. In addition, the legislature finds that the state should fund and administer access to counsel for certain types of postconviction procedures through the Washington state office of public defense. This act is intended to: Authorize the office of public defense, within amounts appropriated for this purpose, to provide counsel for certain indigent adults and juveniles to file and prosecute one, timely personal restraint petition; petition a sentencing court when the legislature creates an opportunity to do so; and challenge a conviction or sentence if a final decision of an appellate court creates an opportunity to do so.

Sec. 2. RCW 2.70.020 and 2021 c 328 s 3 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 and RCW 10.73.150;

(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; and

(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)~~)) (2) Subject to availability of funds appropriated for this specific purpose, provide access to counsel for indigent persons incarcerated in a juvenile rehabilitation or adult correctional facility to file and prosecute a first, timely personal restraint petition under RCW 10.73.150. The office shall establish eligibility criteria that prioritize access to counsel for youth under age 25, youth or adults with sentences in excess of 120 months, youth or adults with disabilities, and youth or adults with limited English proficiency. Nothing in this subsection creates an entitlement to counsel at state expense to file a personal restraint petition;

(3) Subject to the availability of funds appropriated for this specific purpose, appoint counsel to petition the sentencing court if the legislature creates an ability to petition the sentencing court, or appoint counsel to challenge a conviction or sentence if a final decision of an appellate court creates the ability to challenge a conviction or sentence. Nothing in this subsection creates an entitlement to counsel at state expense to petition the sentencing court;

(4) Provide access to attorneys for juveniles contacted by a law enforcement officer for whom a legal consultation is required under RCW 13.40.740;

((~~(2)~~)) (5) Submit a biennial budget for all costs related to the office's program areas;

((~~(3)~~)) (6) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

((~~(4)~~)) (7) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

((~~(5)~~)) (8) 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)~~)) (9) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

((~~(7)~~)) (10) 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. 3.** The office of public defense shall:

(1) Examine and evaluate barriers to providing postconviction counsel to file and prosecute a collateral attack. Barriers to be examined and evaluated include issues related to statutes, state and local court rules and practices, availability of qualified attorneys, and any other issues that may come to the attention of the office of public defense;

(2) Engage in outreach to postconviction stakeholders, and include input from prosecutors, defense counsel, and convicted persons and their families;

(3) Identify resources and reforms to overcome the barriers;

(4) Report findings and recommendations to the appropriate fiscal and policy committees of the legislature not later than December 1, 2024.

NEW SECTION. **Sec. 4.** This act takes effect January 1, 2024.

Passed by the Senate March 3, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 262

[Substitute Senate Bill 5006]

VOLUNTARY WAIVERS OF FIREARM RIGHTS—VARIOUS PROVISIONS

AN ACT Relating to clarifying waiver of firearm rights; amending RCW 9.41.040, 9.41.350, and 9.41.352; reenacting and amending RCW 9.41.010; adding a new section to chapter 9.41 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.41.010 and 2022 c 105 s 2 and 2022 c 104 s 2 are each reenacted [and amended] to read as follows:

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

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Assemble" means to fit together component parts.

(3) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(4) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

(5) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(6) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(7) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(8) "Distribute" means to give out, provide, make available, or deliver a firearm or large capacity magazine to any person in this state, with or without consideration, whether the distributor is in-state or out-of-state. "Distribute" includes, but is not limited to, filling orders placed in this state, online or otherwise. "Distribute" also includes causing a firearm or large capacity magazine to be delivered in this state.

(9) "Family or household member" has the same meaning as in RCW 7.105.010.

(10) "Federal firearms dealer" means a licensed dealer as defined in 18 U.S.C. Sec. 921(a)(11).

(11) "Federal firearms importer" means a licensed importer as defined in 18 U.S.C. Sec. 921(a)(9).

(12) "Federal firearms manufacturer" means a licensed manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

(13) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(14) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(15) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(16) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(17)(a) "Frame or receiver" means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect the fire control components. Any such part identified with a serial number shall be presumed, absent an official determination by the bureau of alcohol, tobacco, firearms, and explosives or other reliable evidence to the contrary, to be a frame or receiver.

(b) For purposes of this subsection, "fire control component" means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: Hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

(18) "Gun" has the same meaning as firearm.

(19) "Import" means to move, transport, or receive an item from a place outside the territorial limits of the state of Washington to a place inside the territorial limits of the state of Washington. "Import" does not mean situations where an individual possesses a large capacity magazine when departing from, and returning to, Washington state, so long as the individual is returning to Washington in possession of the same large capacity magazine the individual transported out of state.

(20) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

(21) "Large capacity magazine" means an ammunition feeding device with the capacity to accept more than 10 rounds of ammunition, or any conversion kit, part, or combination of parts, from which such a device can be assembled if those parts are in possession of or under the control of the same person, but shall not be construed to include any of the following:

(a) An ammunition feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;

(b) A 22 caliber tube ammunition feeding device; or

(c) A tubular magazine that is contained in a lever-action firearm.

(22) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(23) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(24) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(25) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(26) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(27) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(28) "Manufacture" means, with respect to a firearm or large capacity magazine, the fabrication, making, formation, production, or construction of a firearm or large capacity magazine, by manual labor or by machinery.

(29) "Mental health professional" means a psychiatrist, psychologist, or physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, social worker, mental health counselor, marriage and family therapist, or such other mental health professionals as may be defined in statute or by rules adopted by the department of health pursuant to the provisions of chapter 71.05 RCW.

(30) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(((~~(30)~~))) (31) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(((~~(31)~~))) (32) "Pistol" means any firearm with a barrel less than 16 inches in length, or is designed to be held and fired by the use of a single hand.

(((~~(32)~~))) (33) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(((~~(33)~~))) (34) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(((~~(34)~~))) (35) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

(((~~(35)~~))) (36)(a) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and

chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(b) "Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(((~~(36)~~))) (37) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least 10 years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age 14;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; or

(p) Any felony conviction under RCW 9.41.115.

(((~~(37)~~))) (38) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than 26 inches.

(((~~(38)~~))) (39) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than 26 inches.

(((~~(39)~~))) (40) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(((~~(40)~~))) (41) "Substance use disorder professional" means a person certified under chapter 18.205 RCW.

(42) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

(((~~(41)~~))) (43) "Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

(((~~(42)~~))) (44)(a) "Unfinished frame or receiver" means a frame or receiver that is partially complete, disassembled, or inoperable, that: (i) Has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state; or (ii) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once finished or completed, including without limitation products marketed or sold to the public as an 80 percent frame or receiver or unfinished frame or receiver.

(b) For purposes of this subsection:

(i) "Readily" means a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following: (A) Time, i.e., how long it takes to finish the process; (B) ease, i.e., how difficult it is to do so; (C) expertise, i.e., what knowledge and skills are required; (D) equipment, i.e., what tools are required; (E) availability, i.e., whether additional parts are required, and how easily they can be obtained; (F) expense, i.e., how much it costs; (G) scope, i.e., the extent to which the subject of the process must be changed to finish it; and (H) feasibility, i.e., whether the process would damage or destroy the subject of the process, or cause it to malfunction.

(ii) "Partially complete," as it modifies frame or receiver, means a forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a firearm.

(((~~(43)~~))) (45) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(((~~(44)~~))) (46) "Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

Sec. 2. RCW 9.41.040 and 2022 c 268 s 28 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his

or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense as defined in this chapter.

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section, or any of the following crimes when committed by one family or household member against another or by one intimate partner against another, as those terms are defined by the statutes in effect at the time of the commission of the crime, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 10.99.040 or any of the former RCW 26.50.060, 26.50.070, and 26.50.130);

(ii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of harassment when committed by one family or household member against another or by one intimate partner against another, committed on or after June 7, 2018;

(iii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of a violation of the provisions of a protection order under chapter 7.105 RCW restraining the person or excluding the person from a residence, when committed by one family or household member against another or by one intimate partner against another, committed on or after July 1, 2022;

(iv) During any period of time that the person is subject to a court order issued under chapter 7.105, 9A.46, 10.99, 26.09, 26.26A, or 26.26B RCW or any of the former chapters 7.90, 7.92, 10.14, and 26.50 RCW that:

(A) Was issued after a hearing for which the person received actual notice, and at which the person had an opportunity to participate, whether the court then issues a full order or reissues a temporary order. If the court enters an agreed order by the parties without a hearing, such an order meets the requirements of this subsection;

(B) Restrains the person from harassing, stalking, or threatening the person protected under the order or child of the person or protected person, or engaging in other conduct that would place the protected person in reasonable fear of bodily injury to the protected person or child; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the protected person or child or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the protected person or child that would reasonably be expected to cause bodily injury; or

(II) Includes an order under RCW 9.41.800 requiring the person to surrender all firearms and prohibiting the person from accessing, having in his or her custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, firearms;

(v) After having previously been involuntarily committed based on a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(vi) After dismissal of criminal charges based on incompetency to stand trial under RCW 10.77.088 when the court has made a finding indicating that the defendant has a history of one or more violent acts, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(vii) If the person is under 18 years of age, except as provided in RCW 9.41.042; and/or

(viii) If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

(b) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted," whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension, or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4)(a) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least 20 years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(i) Under RCW 9.41.047; and/or

(ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or

(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.

(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection only at:

(i) The court of record that ordered the petitioner's prohibition on possession of a firearm; or

(ii) The superior court in the county in which the petitioner resides.

(5) In addition to any other penalty provided for by law, if a person under the age of 18 years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within 24 hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7)(a) A person, whether an adult or a juvenile, commits the civil infraction of unlawful possession of a firearm if the person has in the person's possession or has in the person's control a firearm after the person files a voluntary waiver of firearm rights under RCW 9.41.350 and the form has been accepted by the clerk of the court and the voluntary waiver has not been lawfully revoked.

(b) The civil infraction of unlawful possession of a firearm is a class 4 civil infraction punishable according to chapter 7.80 RCW.

(c) Each firearm unlawfully possessed under this subsection (7) shall be a separate infraction.

(d) The court may, in its discretion, order performance of up to two hours of community restitution in lieu of a monetary penalty prescribed for a civil infraction under this subsection (7).

(8) Each firearm unlawfully possessed under this section shall be a separate offense.

Sec. 3. RCW 9.41.350 and 2018 c 145 s 1 are each amended to read as follows:

(1) A person may file a voluntary waiver of firearm rights, either in writing or electronically, with the clerk of the court in any county in Washington state. The clerk of the court must request a physical or scanned copy of photo identification to verify the person's identity prior to accepting the form. The person filing the form may provide ((~~an alternate person to be contacted if a voluntary waiver of firearm rights is~~)) the name of a family member, mental health professional, substance use disorder professional, or alternate person to be contacted if the filer attempts to purchase a firearm while the voluntary waiver of firearm rights is in effect or if the filer applies to have the voluntary waiver revoked. The clerk of the court must immediately give notice to the person filing the form and any listed family member, mental health professional, substance use disorder professional, or alternate person if the filer's voluntary waiver of firearm rights has been accepted. The notice must state that the filer's possession or control of a firearm is unlawful under RCW 9.41.040(7) and that any firearm in the filer's possession or control should be surrendered immediately. By the end of the business day, the clerk of the court must transmit the accepted form to the Washington state patrol. The Washington state patrol must enter the voluntary waiver of firearm rights into the national instant criminal background check system and any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms within twenty-four hours of receipt of the form. Copies and records of the voluntary waiver of firearm rights shall not be disclosed except to law enforcement agencies.

(2) A filer of a voluntary waiver of firearm rights may update the contact information for any family member, mental health professional, substance use disorder professional, or alternate person provided under subsection (1) of this section by making an electronic or written request to the clerk of the court in the same county where the voluntary waiver of firearm rights was filed. The clerk of the court must request a physical or scanned copy of photo identification to verify the person's identity prior to updating the contact information on the form. By the end of the business day, the clerk of the court must transmit the updated contact information to the Washington state patrol.

(3) No sooner than seven calendar days after filing a voluntary waiver of firearm rights, the person may file a revocation of the voluntary waiver of firearm rights, either in writing or electronically, in the same county where the voluntary waiver of firearm rights was filed. The clerk of the court must request a physical or scanned copy of photo identification to verify the person's identity prior to accepting the form. By the end of the business day, the clerk of the court must transmit the form to the Washington state patrol and to any ((~~contact~~)) family member, mental health professional, substance use disorder professional, or alternate person listed on the voluntary waiver of firearm rights ((~~and destroy all records of the voluntary waiver~~)). Within seven days of receiving a

revocation of a voluntary waiver of firearm rights, the Washington state patrol must remove the person from the national instant criminal background check system, and any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms in which the person was entered, unless the person is otherwise ineligible to possess a firearm under RCW 9.41.040, and destroy all records of the voluntary waiver.

(((~~(3)~~))) (4) A person who knowingly makes a false statement regarding their identity on the voluntary waiver of firearm rights form or revocation of waiver of firearm rights form is guilty of false swearing under RCW 9A.72.040.

(((~~(4)~~))) (5) Neither a voluntary waiver of firearm rights nor a revocation of a voluntary waiver of firearm rights shall be considered by a court in any legal proceeding.

(((~~(5)~~))) (6) A voluntary waiver of firearm rights may not be required of an individual as a condition for receiving employment, benefits, or services.

(((~~(6)~~))) (7) All records obtained and all reports produced, as required by this section, are not subject to disclosure through the public records act under chapter 42.56 RCW.

Sec. 4. RCW 9.41.352 and 2018 c 145 s 2 are each amended to read as follows:

(1) The administrator for the courts, under the direction of the chief justice, shall develop a voluntary waiver of firearm rights form and a revocation of voluntary waiver of firearm rights form by January 1, 2019.

(2) The forms must include all of the information necessary for identification and entry of the person into the national instant criminal background check system, and any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms. The voluntary waiver of firearm rights form must include the following language:

Because you have filed this voluntary waiver of firearm rights, effective immediately you may not purchase (((~~or~~))), receive, control, or possess any firearm. You may revoke this voluntary waiver of firearm rights any time after at least seven calendar days have elapsed since the time of filing.

(3) The forms must be made available on the administrator for the courts website, at all county clerk offices, and must also be made widely available at firearm and ammunition dealers and health care provider locations.

NEW SECTION. **Sec. 5.** A new section is added to chapter 9.41 RCW to read as follows:

Mental health professionals and substance use disorder professionals are encouraged to discuss the voluntary waiver of firearm rights with their patients if the mental health professional or substance use disorder professional reasonably believes that a discussion will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation to do so.

Passed by the Senate April 13, 2023.
Passed by the House March 24, 2023.
Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 263

[Senate Bill 5058]

MULTIUNIT RESIDENTIAL BUILDINGS—EXEMPTION—DESIGN, INSPECTIONS, AND CONSTRUCTION DEFECT DISPUTES

AN ACT Relating to exempting buildings with 12 or fewer units that are no more than two stories from the definition of multiunit residential building; and amending RCW 64.55.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 64.55.010 and 2005 c 456 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in RCW 64.34.020 and in this section apply throughout this chapter.

(1) "Attached dwelling unit" means any dwelling unit that is attached to another dwelling unit by a wall, floor, or ceiling that separates heated living spaces. A garage is not a heated living space.

(2) "Building enclosure" means that part of any building, above or below grade, that physically separates the outside or exterior environment from interior environments and which weatherproofs, waterproofs, or otherwise protects the building or its components from water or moisture intrusion. Interior environments consist of both heated and unheated enclosed spaces. The building enclosure includes, but is not limited to, that portion of roofs, walls, balcony support columns, decks, windows, doors, vents, and other penetrations through exterior walls, which waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion.

(3) "Building enclosure design documents" means plans, details, and specifications for the building enclosure that have been stamped by a licensed engineer or architect. The building enclosure design documents shall include details and specifications that are appropriate for the building in the professional judgment of the architect or engineer ((~~which~~)) who prepared the same to waterproof, weatherproof, and otherwise protect the building or its components from water or moisture intrusion, including details of flashing, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane, and details around openings.

(4) "Developer" means:

(a) With respect to a condominium or a conversion condominium, the declarant; and

(b) With respect to all other buildings, an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other entity or person that obtains a building permit for the construction or rehabilitative reconstruction of a multiunit residential building. If a permit is obtained by service providers such as architects, contractors, and consultants who obtain permits for others as part of services rendered for a fee, the person for whom the permit is obtained shall be the developer, not the service provider.

(5) "Dwelling unit" has the meaning given to that phrase or similar phrases in the ordinances of the jurisdiction issuing the permit for construction of the building enclosure but if such ordinances do not provide a definition, then

"dwelling unit" means a residence containing living, cooking, sleeping, and sanitary facilities.

(6) "Multiunit residential building" means:

(a) A building containing more than two attached dwelling units, including a building containing nonresidential units if the building also contains more than two attached dwelling units, but excluding the following classes of buildings:

(i) Hotels and motels;

(ii) Dormitories;

(iii) Care facilities;

(iv) Floating homes;

(v) A building that contains attached dwelling units that are each located on a single platted lot, except as provided in (b) of this subsection;

(vi) A building in which all of the dwelling units are held under one ownership and is subject to a recorded irrevocable sale prohibition covenant; and

(vii) A building with 12 or fewer units that is no more than two stories.

(b) If the developer submits to the appropriate building department when applying for the building permit described in RCW 64.55.020 a statement that the developer elects to treat the improvement for which a permit is sought as a multiunit residential building for all purposes under this chapter, then "multiunit residential building" also means the following buildings for which such election has been made:

(i) A building containing only two attached dwelling units;

(ii) A building that does not contain attached dwelling units; and

(iii) Any building that contains attached dwelling units each of which is located on a single platted lot.

(7) "Party unit owner" means a unit owner who is a named party to an action subject to this chapter and does not include any unit owners whose involvement with the action stems solely from their membership in the association.

(8) "Qualified building inspector" means a person satisfying the requirements of RCW 64.55.040.

(9) "Rehabilitative construction" means construction work on the building enclosure of a multiunit residential building if the cost of such construction work is more than five percent of the assessed value of the building.

(10) "Sale prohibition covenant" means a recorded covenant that prohibits the sale or other disposition of individual dwelling units as or as part of a condominium for five years or more from the date of first occupancy except as otherwise provided in RCW 64.55.090, a certified copy of which the developer shall submit to the appropriate building department; provided such covenant shall not apply to sales or dispositions listed in RCW 64.34.400(2). The covenant must be recorded in the county in which the building is located and must be in substantially the following form:

> This covenant has been recorded in the real property records of . . . . . County, Washington, in satisfaction of the requirements of RCW 64.55.010 through 64.55.090. The undersigned is the owner of the property described on Exhibit A (the "Property"). Until termination of this covenant, no dwelling unit in or on the Property may be sold as a condominium unit except for sales listed in RCW 64.34.400(2).

This covenant terminates on the earlier of either: (a) Compliance with the requirements of RCW 64.55.090, as certified by the owner of the Property in a recorded supplement hereto; or (b) the fifth anniversary of the date of first occupancy of a dwelling unit as certified by the Owner in a recorded supplement hereto.

All title insurance companies and persons acquiring an interest in the Property may rely on the forgoing certifications without further inquiry in issuing any policy of title insurance or in acquiring an interest in the Property.

(11) "Stamped" means bearing the stamp and signature of the responsible licensed architect or engineer on the title page, and on every sheet of the documents, drawings, or specifications, including modifications to the documents, drawings, and specifications that become part of change orders or addenda to alter those documents, drawings, or specifications.

Passed by the Senate February 15, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 264

[Senate Bill 5069]

INTERSTATE CANNABIS AGREEMENTS

AN ACT Relating to interstate cannabis agreements; adding a new section to chapter 43.06 RCW; and providing a contingent effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor may enter into an agreement with another state or states for the purposes of:

(a) Cross-jurisdictional coordination and enforcement of cannabis-related businesses authorized to conduct business in this state, the other state, or both; and

(b) Cross-jurisdictional delivery of cannabis between this state and the other state.

(2) An agreement entered into under this section must ensure:

(a) Enforceable public health and safety standards are met and include a system to regulate and track the interstate delivery of cannabis;

(b) Any cannabis delivered into this state, prior to sale to a consumer, is:

(i) Tested in accordance with rules adopted by the department of agriculture under RCW 15.125.020, by the department of health under RCW 69.50.375, and by the liquor and cannabis board under RCW 69.50.342, 69.50.345, and 69.50.348;

(ii) Packaged and labeled in accordance with RCW 69.50.346 and rules adopted by the liquor and cannabis board under RCW 69.50.342 and 69.50.345; and

(c) Applicable taxes on the sale, delivery, and receipt of cannabis are collected.

(3) In accordance with an agreement entered into under this section:

(a) A cannabis producer, cannabis processor, cannabis researcher, or cannabis retailer licensed under chapter 69.50 RCW may deliver cannabis to a person located in, and authorized to receive cannabis by, the other state.

(b) A cannabis producer, cannabis processor, cannabis researcher, or cannabis retailer licensed under chapter 69.50 RCW may receive cannabis from a person located in, and authorized to export cannabis by, the other state.

(4) For the purposes of this section, "cannabis," "cannabis processor," "cannabis producer," "cannabis researcher," "cannabis retailer," and "person" have the meanings provided in RCW 69.50.101.

NEW SECTION. **Sec. 2.** (1) This act takes effect on the earlier of the date on which:

(a) Federal law is amended to allow for the interstate transfer of cannabis between authorized cannabis-related businesses; or

(b) The United States department of justice issues an opinion or memorandum allowing or tolerating the interstate transfer of cannabis between authorized cannabis-related businesses.

(2) If either of the conditions in subsection (1) of this section occur, the liquor and cannabis board must:

(a) Provide written notice of the effective date of section 1 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others deemed appropriate by the board;

(b) Provide written notice of statutory changes necessary to authorize the sale, delivery, and receipt of cannabis in accordance with an agreement entered into under section 1 of this act to the governor and the appropriate committees of the legislature; and

(c) Adopt rules necessary to authorize the sale, delivery, and receipt of cannabis in accordance with an agreement entered into under section 1 of this act.

Passed by the Senate April 14, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 265

[Substitute Senate Bill 5072]

HIGHLY CAPABLE STUDENTS—IDENTIFICATION

AN ACT Relating to advancing equity in programs for highly capable students; amending RCW 28A.185.020, 28A.185.030, 28A.185.050, and 28A.300.042; adding a new section to chapter 28A.185 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. The legislature has directed school districts to prioritize

equitable identification of low-income students for participation in highly capable programs and services. The research literature strongly supports using universal screening and multiple criteria to equitably identify students for highly capable programs. There are multiple approaches to implementing universal screening and the use of multiple criteria. The legislature intends all school districts to use best practices and does not intend to prescribe a single method.

(2) The legislature further intends to allocate state funding for the highly capable program based on five percent of each school district's student population. The legislature does not intend to limit highly capable services to five percent of the student population. School districts may identify and serve more than five percent of their students for highly capable programs and services.

Sec. 2. RCW 28A.185.020 and 2017 3rd sp.s. c 13 s 412 are each amended to read as follows:

(((~~(1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single method. Instead, the legislature intends to allocate funding based on 5.0 percent of each school district's population and authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district.~~)) District practices for identifying ((~~the most~~)) highly capable students must prioritize equitable identification of low-income students. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.

(((~~(2) Supplementary funds provided by the state for the program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030.~~))

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.185 RCW to read as follows:

(1) Other basic education funding can be used alongside categorical funding to identify students and provide programs and services for highly capable students.

(2) Each school district must conduct universal screenings in accordance with RCW 28A.185.030 to find students who may qualify for potential highly capable program placement.

Sec. 4. RCW 28A.185.030 and 2009 c 380 s 4 are each amended to read as follows:

((~~Local school~~)) (1) School districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. ((~~Local school~~))

(2) School districts ((~~which~~)) that establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

(((~~(1)~~))) (a) In accordance with rules adopted by the superintendent of public instruction, school districts shall implement procedures for ((~~nomination~~)) referral, screening, assessment ((~~and selection~~)), identification, and placement of ((~~their most~~)) highly capable students. ((~~Nominations shall be based upon data from~~))

(i) Referrals must be available for all grade levels not being universally screened, and may be submitted by teachers, other staff, parents, students, and members of the community.

(ii) Each school district must select a grade level to implement universal screening procedures for each student. Universal screening must occur once in or before second grade, and again in or before sixth grade. The purpose of universal screening is to include students who traditionally are not referred for highly capable programs and services. Students discovered during universal screening may need further assessment to determine whether the student is eligible for placement in a program for highly capable students. Districts must consider at least two student data points during universal screening, which may include previously administered standardized, classroom-based, performance, cognitive, or achievement assessments, or research-based behavior ratings scales. There is no requirement to administer a new assessment for the purpose of universal screening, however districts may do so if they desire.

(iii) Assessments ((~~shall~~)) for highly capable program services must be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Any screenings or additional assessments must be conducted within the school day and at the school the student attends, except that school districts, on a case-by-case basis and with the consent of the parent or guardian, may offer a student screenings or additional assessment opportunities during the summer, outside of school hours, or at an alternative site.

((~~Selection~~)) (iv) Identification and placement decisions shall be made by a ((~~broadly based committee of professionals,~~)) multidisciplinary selection committee after consideration of the results of the ((~~multiple criteria assessment~~)) universal screening, any further assessment, and any available district data. Students identified pursuant to procedures outlined in this section must be provided, to the extent feasible, an educational opportunity that takes into account each student's unique needs and capabilities, and the limits of the resources and program options available to the district, including those options that can be developed or provided using funds allocated by the superintendent of public instruction for this specific purpose.

(b) In addition to the criteria listed in (a) of this subsection, district practices for identifying highly capable students must seek to expand access to accelerated learning and enhanced instruction at elementary and secondary schools and advance equitable enrollment practices so that all students, especially students from historically underrepresented and low-income groups, who are ready to engage in more rigorous coursework can benefit from accelerated learning and enhanced instruction.

(((~~(2)~~))) (3) When a student, who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

(((~~(3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose.~~)))

(4) ((~~The~~)) For a student who is a child of a military family in transition, the definitions in Article II of RCW 28A.705.010 apply to subsection (((~~(2)~~))) (3) of this section.

Sec. 5. RCW 28A.185.050 and 2002 c 234 s 1 are each amended to read as follows:

(1) In order to ensure that school districts are meeting the requirements of an approved program for highly capable students, the superintendent of public instruction shall monitor highly capable programs at least once every five years. Monitoring shall begin during the 2002-03 school year.

(2) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the office of the superintendent of public instruction. In its review, the office shall monitor program components that include but need not be limited to the process used by the district to identify and reach out to highly capable students with diverse talents and from diverse backgrounds, assessment data ((~~and~~)), other indicators to determine how well the district is meeting the academic needs of highly capable students, and district expenditures used to enrich or expand opportunities for these students.

(3) Beginning June 30, 2003, and every five years thereafter, the office of the superintendent of public instruction shall submit a report to the education committees of the house of representatives and the senate that provides the following:

(a) A brief description of the various instructional programs offered to highly capable students; and

(b) Relevant data to the programs for highly capable students collected under RCW 28A.300.042.

(4) Beginning November 1, 2023, and annually thereafter, the superintendent of public instruction must make data publicly available that includes a comparison of the race, ethnicity, and low-income status of highly capable students compared to the same demographic groups in the general student population of each school district. Reporting must also include comparisons for students who are English language learners, have an individualized education program, have a 504 plan, are covered by provisions of the McKinney-Vento homeless assistance act, or are highly mobile.

(5) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

Sec. 6. RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

(1) ((~~Beginning with the 2017-18 school year, and using the phase-in provided in subsection (2) of this section, the~~)) The superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(b) Further disaggregation of countries of origin for Asian students;

(c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, highly capable, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

(a) Gender;

(b) Foster care;

(c) Homeless, if known;

(d) School district;

(e) School;

(f) Grade level;

(g) Behavior infraction code, including:

(i) Bullying;

(ii) Tobacco;

(iii) Alcohol;

(iv) Illicit drug;

(v) Fighting without major injury;

(vi) Violence without major injury;

(vii) Violence with major injury;

(viii) Possession of a weapon; and

(ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;

(h) Intervention applied, including:

(i) Short-term suspension;

(ii) Long-term suspension;

(iii) Emergency expulsion;

(iv) Expulsion;

(v) Interim alternative education settings;

(vi) No intervention applied; and

(vii) Other intervention applied that is not described in this subsection (4)(h);

(i) Number of days a student is suspended or expelled, to be counted in half or full days; and

(j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

(a) School and district;

(b) Race, low income, highly capable, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;

(c) Behavior infraction code; and

(d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data ((~~on student race and ethnicity~~)) under this section in other training or professional development related to data provided by the office.

Passed by the Senate April 13, 2023.
Passed by the House March 22, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 266

[Substitute Senate Bill 5077]

UNIFORM COMMERCIAL CODE—VARIOUS PROVISIONS

AN ACT Relating to the uniform commercial code; amending RCW 62A.1-201, 62A.1-204, 62A.1-301, 62A.1-306, 62A.2-102, 62A.2-106, 62A.2-201, 62A.2-202, 62A.2-203, 62A.2-205, 62A.2-209, 62A.2A-102, 62A.2A-103, 62A.2A-107, 62A.2A-201, 62A.2A-202, 62A.2A-203, 62A.2A-205, 62A.2A-208, 62A.3-104, 62A.3-105, 62A.3-401, 62A.3-604, 62A.4A-103, 62A.4A-201, 62A.4A-202, 62A.4A-203, 62A.4A-207, 62A.4A-208, 62A.4A-210, 62A.4A-211, 62A.4A-305, 62A.5-104, 62A.5-116, 62A.7-102, 62A.7-106, 62A.8-102, 62A.8-103, 62A.8-106, 62A.8-110, 62A.8-303, 62A.9A-102, 62A.9A-104, 62A.9A-105, 62A.9A-203, 62A.9A-204, 62A.9A-207, 62A.9A-208, 62A.9A-209, 62A.9A-210, 62A.9A-301, 62A.9A-304, 62A.9A-305, 62A.9A-310, 62A.9A-312, 62A.9A-313, 62A.9A-314, 62A.9A-316, 62A.9A-317, 62A.9A-323, 62A.9A-324, 62A.9A-330, 62A.9A-331, 62A.9A-332, 62A.9A-334, 62A.9A-341, 62A.9A-404, 62A.9A-406, 62A.9A-408, 62A.9A-509, 62A.9A-513, 62A.9A-601, 62A.9A-605, 62A.9A-608, 62A.9A-611,

62A.9A-613, 62A.9A-614, 62A.9A-615, 62A.9A-616, 62A.9A-619, 62A.9A-620, 62A.9A-621, 62A.9A-624, and 62A.9A-628; adding new sections to Article 9A of Title 62A RCW; adding new articles to Title 62A RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

PART I

Sec. 101. RCW 62A.1-201 and 2012 c 214 s 109 are each amended to read as follows:

(a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other articles of this title that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other articles of this title that apply to particular articles or parts thereof:

(1) "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined.

(2) "Aggrieved party" means a party entitled to pursue a remedy.

(3) "Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in RCW 62A.1-303.

(4) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(5) "Bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 of this title may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous," with reference to a term, means so written, displayed, or presented that, based on the totality of the circumstances, a reasonable person against which it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court. ((~~Conspicuous terms include the following:~~

~~(A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and~~

~~(B) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.~~))

(11) "Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) "Contract," as distinguished from "agreement," means the total legal obligation that results from the parties' agreement as determined by this title as supplemented by any other applicable laws.

(13) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(14) "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) "Delivery," with respect to an electronic document of title, means voluntary transfer of control and, with respect to an instrument, a tangible document of title, or an authoritative tangible copy of a record evidencing chattel paper, means voluntary transfer of possession.

(16) "Document of title" means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(16A) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(17) "Fault" means a default, breach, or wrongful act or omission.

(18) "Fungible goods" means:

(A) Goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(B) Goods that by agreement are treated as equivalent.

(19) "Genuine" means free of forgery or counterfeiting.

(20) "Good faith," except as otherwise provided in Article 5 of this title, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(21) "Holder" with respect to a negotiable instrument, means:

(A) The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(B) The person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) The person in control, other than pursuant to RCW 62A.7-106(g), of a negotiable electronic document of title.

(22) "Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23) "Insolvent" means:

(A) Having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) Being unable to pay debts as they become due; or

(C) Being insolvent within the meaning of federal bankruptcy law.

(24) "Money" means a medium of exchange that is currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries. The term does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government.

(25) "Organization" means a person other than an individual.

(26) "Party," as distinguished from "third party," means a person that has engaged in a transaction or made an agreement subject to this title.

(27) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, ((~~public corporation,~~)) or any other legal or commercial entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law other than this title that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

(28) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(30) "Purchaser" means a person that takes by purchase.

(31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(33) "Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate.

(34) "Right" includes remedy.

(35) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9A of this title. "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under RCW 62A.2-401, but a buyer may also acquire a "security interest" by complying with Article 9A of this title. Except as otherwise provided in RCW 62A.2-505, the right of a seller or lessor of goods under Article 2 or 2A of this title to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Article 9A of this title. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under RCW 62A.2-401 is limited in effect to a reservation of a "security interest." Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to RCW 62A.1-203.

(36) "Send," in connection with a ((~~writing,~~)) record((~~,~~)) or ((~~notice~~)) notification, means:

(A) To deposit in the mail ((~~or~~)), deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for ((~~and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none~~)), addressed to any address reasonable under the circumstances; or

(B) ((~~In any other way to cause to be received any record or notice within the time it would have arrived if properly sent~~)) to cause the record or notification to be received within the time it would have been received if properly sent under (36)(A) of this subsection.

(37) ((~~"Signed" includes using any symbol executed or adopted with present intention to adopt or accept a writing.~~)) "Sign" means, with present intent to authenticate or adopt a record:

(A) Execute or adopt a tangible symbol; or

(B) Attach to or logically associate with the record an electronic symbol, sound, or process.

"Signed," "signing," and "signature" have corresponding meanings.

(38) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(39) "Surety" includes a guarantor or other secondary obligor.

(40) "Term" means a portion of an agreement that relates to a particular matter.

(41) "Unauthorized signature" means a signature made without actual, implied, or apparent authority. The term includes a forgery.

(42) "Warehouse receipt" means a document of title issued by a person engaged in the business of storing goods for hire.

(43) "Writing" includes printing, typewriting, or any other intentional reduction to tangible form. "Written" has a corresponding meaning.

Sec. 102. RCW 62A.1-204 and 2012 c 214 s 112 are each amended to read as follows:

Except as otherwise provided in Articles 3, 4, ((~~and~~)) 5, and 12 of this title, a person gives value for rights if the person acquires them:

(1) In return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

(2) As security for, or in total or partial satisfaction of, a preexisting claim;

(3) By accepting delivery under a preexisting contract for purchase; or

(4) In return for any consideration sufficient to support a simple contract.

Sec. 103. RCW 62A.1-301 and 2012 c 214 s 115 are each amended to read as follows:

(a) Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.

(b) In the absence of an agreement effective under subsection (a) of this section, and except as provided in subsection (c) of this section, this title applies to transactions bearing an appropriate relation to this state.

(c) If one of the following provisions of this title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

(1) RCW 62A.2-402;

(2) RCW 62A.2A-105 and 62A.2A-106;

(3) RCW 62A.4-102;

(4) RCW 62A.4A-507;

(5) RCW 62A.5-116;

(6) RCW 62A.8-110;

(7) RCW 62A.9A-301 through 62A.9A-307; and

(8) Section 1007 of this act.

Sec. 104. RCW 62A.1-306 and 2012 c 214 s 120 are each amended to read as follows:

A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in ((~~an authenticated~~)) a signed record.

PART II

Sec. 201. RCW 62A.2-102 and 1965 ex.s. c 157 s 2-102 are each amended to read as follows:

((~~Unless the context otherwise requires, this Article applies to transactions in goods; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this Article impair or repeal any statute regulating~~

~~sales to consumers, farmers or other specified classes of buyers.~~)) (1) Unless the context otherwise requires, and except as provided in subsection (3) of this section, this Article applies to transactions in goods and, in the case of a hybrid transaction, it applies to the extent provided in subsection (2) of this section.

(2) In a hybrid transaction:

(a) If the sale-of-goods aspects do not predominate, only the provisions of this Article which relate primarily to the sale-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply.

(b) If the sale-of-goods aspects predominate, this Article applies to the transaction but does not preclude application in appropriate circumstances of other law to aspects of the transaction which do not relate to the sale of goods.

(3) This Article does not:

(a) Apply to a transaction that, even though in the form of an unconditional contract to sell or present sale, operates only to create a security interest; or

(b) Impair or repeal a statute regulating sales to consumers, farmers, or other specified classes of buyers.

Sec. 202. RCW 62A.2-106 and 1965 ex.s. c 157 s 2-106 are each amended to read as follows:

(1) In this Article unless the context otherwise requires "contract" and "agreement" are limited to those relating to the present or future sale of goods. "Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the seller to the buyer for a price (RCW 62A.2-401). A "present sale" means a sale which is accomplished by the making of the contract.

(2) Goods or conduct including any part of a performance are "conforming" or conform to the contract when they are in accordance with the obligations under the contract.

(3) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On "termination" all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

(4) "Cancellation" occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of "termination" except that the canceling party also retains any remedy for breach of the whole contract or any unperformed balance.

(5) "Hybrid transaction" means a single transaction involving a sale of goods and:

(a) The provision of services;

(b) A lease of other goods; or

(c) A sale, lease, or license of property other than goods.

Sec. 203. RCW 62A.2-201 and 2013 c 23 s 126 are each amended to read as follows:

(1) Except as otherwise provided in this section, a contract for the sale of goods for the price of ((~~five hundred dollars~~)) $500 or more is not enforceable by way of action or defense unless there is ((~~some writing~~)) a record sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by ((~~his or her~~)) the party's

authorized agent or broker. A ((~~writing~~)) record is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this ((~~paragraph~~)) subsection beyond the quantity of goods shown in ((~~such writing~~)) the record.

(2) Between merchants if within a reasonable time a ((~~writing~~)) record in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) of this section against ((~~such~~)) the party unless ((~~written~~)) notice in a record of objection to its contents is given within ((~~ten~~)) 10 days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) of this section but which is valid in other respects is enforceable:

(a) If the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) If the party against whom enforcement is sought admits in his or her pleading, testimony, or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) With respect to goods for which payment has been made and accepted or which have been received and accepted (RCW 62A.2-606).

Sec. 204. RCW 62A.2-202 and 2012 c 214 s 803 are each amended to read as follows:

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a ((~~writing~~)) record intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) By course of performance, course of dealing, or usage of trade (RCW 62A.1-303); and

(b) By evidence of consistent additional terms unless the court finds the ((~~writing~~)) record to have been intended also as a complete and exclusive statement of the terms of the agreement.

Sec. 205. RCW 62A.2-203 and 1965 ex.s. c 157 s 2-203 are each amended to read as follows:

The affixing of a seal to a ((~~writing~~)) record evidencing a contract for sale or an offer to buy or sell goods does not constitute the ((~~writing~~)) record a sealed instrument and the law with respect to sealed instruments does not apply to such contract or offer.

Sec. 206. RCW 62A.2-205 and 1965 ex.s. c 157 s 2-205 are each amended to read as follows:

An offer by a merchant to buy or sell goods in a signed ((~~writing~~)) record which by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three

months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Sec. 207. RCW 62A.2-209 and 1965 ex.s. c 157 s 2-209 are each amended to read as follows:

(1) An agreement modifying a contract within this Article needs no consideration to be binding.

(2) A signed agreement which excludes modification or rescission except by a signed writing or other signed record cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

(3) The requirements of the statute of frauds section of this Article (RCW 62A.2-201) must be satisfied if the contract as modified is within its provisions.

(4) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2) or (3) it can operate as a waiver.

(5) A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

PART III

Sec. 301. RCW 62A.2A-102 and 1993 c 230 s 2A-102 are each amended to read as follows:

(1) This Article applies to any transaction, regardless of form, that creates a lease and, in the case of a hybrid lease, it applies to the extent provided in subsection (2) of this section.

(2) In a hybrid lease:

(a) If the lease-of-goods aspects do not predominate:

(i) Only the provisions of this Article which relate primarily to the lease-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply;

(ii) RCW 62A.2A-209 applies if the lease is a finance lease; and

(iii) RCW 62A.2A-407 applies to the promises of the lessee in a finance lease to the extent the promises are consideration for the right to possession and use of the leased goods; and

(b) If the lease-of-goods aspects predominate, this Article applies to the transaction, but does not preclude application in appropriate circumstances of other law to aspects of the lease which do not relate to the lease of goods.

Sec. 302. RCW 62A.2A-103 and 2012 c 214 s 902 are each amended to read as follows:

(1) In this Article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash, or by exchange of other property, or on secured or unsecured credit, and includes acquiring goods or documents of title under a preexisting contract for sale but

does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) The lessor does not select, manufacture, or supply the goods;

(ii) The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) Only in the case of a consumer lease, either:

(A) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract; or

(C) The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (RCW 62A.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(h.1) "Hybrid lease" means a single transaction involving a lease of goods and:

(i) The provision of services;

(ii) A sale of other goods; or

(iii) A sale, lease, or license of property other than goods.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even

though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash, or by exchange of other property, or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Accessions."	RCW 62A.2A-310.
"Construction mortgage."	RCW 62A.2A-309.
"Encumbrance."	RCW 62A.2A-309.
"Fixtures."	RCW 62A.2A-309.
"Fixture filing."	RCW 62A.2A-309.
"Purchase money lease."	RCW 62A.2A-309.

(3) The following definitions in other articles apply to this Article:

"Account."	RCW 62A.9A-102.
"Between merchants."	RCW 62A.2-104.
"Buyer."	RCW 62A.2-103.
"Chattel paper."	RCW 62A.9A-102.
"Consumer goods."	RCW 62A.9A-102.
"Document."	RCW 62A.9A-102.
"Entrusting."	RCW 62A.2-403.
"General intangible."	RCW 62A.9A-102.
"Instrument."	RCW 62A.9A-102.
"Merchant."	RCW 62A.2-104(1).
"Mortgage."	RCW 62A.9A-102.
"Pursuant to commitment."	RCW 62A.9A-102.
"Receipt."	RCW 62A.2-103.
"Sale."	RCW 62A.2-106.
"Sale on approval."	RCW 62A.2-326.
"Sale or return."	RCW 62A.2-326.
"Seller."	RCW 62A.2-103.

(4) In addition, Article 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 303. RCW 62A.2A-107 and 1993 c 230 s 2A-107 are each amended to read as follows:

Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a ((~~written~~)) waiver or renunciation in a signed ((~~and~~)) record delivered by the aggrieved party.

Sec. 304. RCW 62A.2A-201 and 1993 c 230 s 2A-201 are each amended to read as follows:

(1) A lease contract is not enforceable by way of action or defense unless:

(a) The total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than one thousand dollars; or

(b) There is a ((~~writing~~)) record, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

(2) Any description of leased goods or of the lease term is sufficient and satisfies subsection (1)(b) of this section, whether or not it is specific, if it reasonably identifies what is described.

(3) A ((~~writing~~)) record is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under subsection (1)(b) of this section beyond the lease term and the quantity of goods shown in the ((~~writing~~)) record.

(4) A lease contract that does not satisfy the requirements of subsection (1) of this section, but which is valid in other respects, is enforceable:

(a) If the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

(b) If the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) With respect to goods that have been received and accepted by the lessee.

(5) The lease term under a lease contract referred to in subsection (4) of this section is:

(a) If there is a ((~~writing~~)) record signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(b) If the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or

(c) A reasonable lease term.

Sec. 305. RCW 62A.2A-202 and 1993 c 230 s 2A-202 are each amended to read as follows:

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a ((~~writing~~)) record intended by the

parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(1) By course of dealing or usage of trade or by course of performance; and

(2) By evidence of consistent additional terms unless the court finds the ((~~writing~~)) record to have been intended also as a complete and exclusive statement of the terms of the agreement.

Sec. 306. RCW 62A.2A-203 and 1993 c 230 s 2A-203 are each amended to read as follows:

The affixing of a seal to a ((~~writing~~)) record evidencing a lease contract or an offer to enter into a lease contract does not render the ((~~writing~~)) record a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.

Sec. 307. RCW 62A.2A-205 and 1993 c 230 s 2A-205 are each amended to read as follows:

An offer by a merchant to lease goods to or from another person in a signed ((~~writing~~)) record that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed three months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Sec. 308. RCW 62A.2A-208 and 1993 c 230 s 2A-208 are each amended to read as follows:

(1) An agreement modifying a lease contract needs no consideration to be binding.

(2) A signed lease agreement that excludes modification or rescission except by a signed ((~~writing~~)) record may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

(3) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2) of this section, it may operate as a waiver.

(4) A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

PART IV

Sec. 401. RCW 62A.3-104 and 1993 c 229 s 6 are each amended to read as follows:

(a) Except as provided in subsections (c) and (d), "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(1) Is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(2) Is payable on demand or at a definite time; and

(3) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give,

maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, ((~~or~~)) (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor, (iv) a term that specifies the law that governs the promise or order, or (v) an undertaking to resolve in a specified forum a dispute concerning the promise or order.

(b) "Instrument" means a negotiable instrument.

(c) An order that meets all of the requirements of subsection (a), except subsection (a)(1), and otherwise falls within the definition of "check" in subsection (f) is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this Article.

(e) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft," a person entitled to enforce the instrument may treat it as either.

(f) "Check" means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank, or (ii) a cashier's check or teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order."

(g) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) "Teller's check" means a draft drawn by a bank (i) on another bank, or (ii) payable at or through a bank.

(i) "Traveler's check" means an instrument that (i) is payable on demand, (ii) is drawn on or payable at or through a bank, (iii) is designated by the term "traveler's check" or by a substantially similar term, and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

Sec. 402. RCW 62A.3-105 and 1993 c 229 s 7 are each amended to read as follows:

(a) "Issue" means ((~~the~~)):

(1) The first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person; or

(2) If agreed by the payee, the first transmission by the drawer to the payee of an image of an item and information derived from the item that enables the depositary bank to collect the item by transferring or presenting under federal law an electronic check.

(b) An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

(c) "Issuer" applies to issued and unissued instruments and means a maker or drawer of an instrument.

Sec. 403. RCW 62A.3-401 and 1993 c 229 s 41 are each amended to read as follows:

(((~~(a)~~))) A person is not liable on an instrument unless (((~~(i)~~))) (a) the person signed the instrument, or (((~~(ii)~~))) (b) the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under RCW 62A.3-402.

(((~~(b) A signature may be made (i) manually or by means of a device or machine, and (ii) by the use of any name, including a trade or assumed name, or by a word, mark, or symbol executed or adopted by a person with present intention to authenticate a writing.~~)))

Sec. 404. RCW 62A.3-604 and 1993 c 229 s 74 are each amended to read as follows:

(a) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument (i) by an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge, or (ii) by agreeing not to sue or otherwise renouncing rights against the party by a signed writing. The obligation of a party to pay a check is not discharged solely by destruction of the check in connection with a process in which information is extracted from the check and an image of the check is made and, subsequently, the information and image are transmitted for payment.

(b) Cancellation or striking out of an indorsement pursuant to subsection (a) does not affect the status and rights of a party derived from the indorsement.

PART V

Sec. 501. RCW 62A.4A-103 and 2013 c 118 s 2 are each amended to read as follows:

(a) In this Article:

(1) "Payment order" means an instruction of a sender to a receiving bank, transmitted orally((~~, electronically,~~)) or in ((~~writing~~)) a record, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(i) The instruction does not state a condition to payment to the beneficiary other than time of payment;

(ii) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and

(iii) The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.

(2) "Beneficiary" means the person to be paid by the beneficiary's bank.

(3) "Beneficiary's bank" means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

(4) "Receiving bank" means the bank to which the sender's instruction is addressed.

(5) "Sender" means the person giving the instruction to the receiving bank.

(b) If an instruction complying with subsection (a)(1) of this section is to make more than one payment to a beneficiary, the instruction is a separate payment order with respect to each payment.

(c) A payment order is issued when it is sent to the receiving bank.

Sec. 502. RCW 62A.4A-201 and 1991 sp.s. c 21 s 4A-201 are each amended to read as follows:

"Security procedure" means a procedure established by agreement of a customer and a receiving bank for the purpose of (1) verifying that a payment order or communication amending or canceling a payment order is that of the customer, or (2) detecting error in the transmission or the content of the payment order or communication. A security procedure may impose an obligation on the receiving bank or the customer and may require the use of algorithms or other codes, identifying words ((~~or~~)), numbers, symbols, sounds, biometrics, encryption, callback procedures, or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer or requiring a payment order to be sent from a known email address, IP address, or telephone number is not by itself a security procedure.

Sec. 503. RCW 62A.4A-202 and 2013 c 118 s 6 are each amended to read as follows:

(a) A payment order received by the receiving bank is the authorized order of the person identified as sender if that person authorized the order or is otherwise bound by it under the law of agency.

(b) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if (i) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and (ii) the bank proves that it accepted the payment order in good faith and in compliance with the bank's obligations under the security procedure and any ((~~written~~)) agreement or instruction of the customer, evidenced by a record, restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates a ((~~written~~)) an agreement with the customer, evidenced by a record, or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

(c) Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type, and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if (i) the security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer, and (ii) the customer expressly agreed in ((~~writing~~)) a record to be bound by any payment order, whether or not authorized, issued in its name, and

accepted by the bank in compliance with the bank's obligations under the security procedure chosen by the customer.

(d) The term "sender" in this Article includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under subsection (a) of this section, or it is effective as the order of the customer under subsection (b) of this section.

(e) This section applies to amendments and cancellations of payment orders to the same extent it applies to payment orders.

(f) Except as provided in this section and RCW 62A.4A-203(a)(1), rights and obligations arising under this section or RCW 62A.4A-203 may not be varied by agreement.

Sec. 504. RCW 62A.4A-203 and 2013 c 118 s 7 are each amended to read as follows:

(a) If an accepted payment order is not, under RCW 62A.4A-202(a), an authorized order of a customer identified as sender, but is effective as an order of the customer pursuant to RCW 62A.4A-202(b), the following rules apply.

(1) By express ((~~written~~)) agreement evidenced by a record, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

(2) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure, or (ii) who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving bank, information facilitating breach of the security procedure, regardless of how the information was obtained or whether the customer was at fault. Information includes any access device, computer software, or the like.

(b) This section applies to amendments of payment orders to the same extent it applies to payment orders.

Sec. 505. RCW 62A.4A-207 and 2013 c 118 s 11 are each amended to read as follows:

(a) Subject to subsection (b) of this section, if, in a payment order received by the beneficiary's bank, the name, bank account number, or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

(b) If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules apply:

(1) Except as otherwise provided in subsection (c) of this section, if the beneficiary's bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

(2) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was

entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

(c) If (i) a payment order described in subsection (b) of this section is accepted, (ii) the originator's payment order described the beneficiary inconsistently by name and number, and (iii) the beneficiary's bank pays the person identified by number as permitted by subsection (b)(1) of this section, the following rules apply:

(1) If the originator is a bank, the originator is obliged to pay its order.

(2) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a ((~~writing~~)) record stating the information to which the notice relates.

(d) In a case governed by subsection (b)(1) of this section, if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

(1) If the originator is obliged to pay its payment order as stated in subsection (c) of this section, the originator has the right to recover.

(2) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

Sec. 506. RCW 62A.4A-208 and 2013 c 118 s 12 are each amended to read as follows:

(a) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

(1) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

(2) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(b) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

(1) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(2) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by subsection (b)(1) of this section, as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a ((~~writing~~)) record stating the information to which the notice relates.

(3) Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

(4) If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in RCW 62A.4A-302(a)(1).

Sec. 507. RCW 62A.4A-210 and 2013 c 118 s 14 are each amended to read as follows:

(a) A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally((~~, electronically,~~)) or in ((~~writing~~)) a record. A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, (i) any means complying with the agreement is reasonable and (ii) any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

(b) This subsection applies if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order. If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is canceled pursuant to RCW 62A.4A-211(d) or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

(c) If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

(d) Acceptance of a payment order precludes a later rejection of the order. Rejection of a payment order precludes a later acceptance of the order.

Sec. 508. RCW 62A.4A-211 and 2013 c 118 s 15 are each amended to read as follows:

(a) A communication of the sender of a payment order canceling or amending the order may be transmitted to the receiving bank orally((~~, electronically,~~)) or in ((~~writing~~)) a record. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

(b) Subject to subsection (a) of this section, a communication by the sender canceling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

(c) After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer system rule allows cancellation or amendment without agreement of the bank.

(1) With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

(2) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a payment order (i) that is a duplicate of a payment order previously issued by the sender, (ii) that orders payment to a beneficiary not entitled to receive payment from the originator, or (iii) that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is canceled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(d) An unaccepted payment order is canceled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

(e) A canceled payment order cannot be accepted. If an accepted payment order is canceled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

(f) Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorneys' fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

(g) A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of

incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

(h) A funds-transfer system rule is not effective to the extent it conflicts with subsection (c)(2) of this section.

Sec. 509. RCW 62A.4A-305 and 2013 c 118 s 21 are each amended to read as follows:

(a) If a funds transfer is completed but execution of a payment order by the receiving bank in breach of RCW 62A.4A-302 results in delay in payment to the beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay caused by the improper execution. Except as provided in subsection (c) of this section, additional damages are not recoverable.

(b) If execution of a payment order by a receiving bank in breach of RCW 62A.4A-302 results in (i) noncompletion of the funds transfer, (ii) failure to use an intermediary bank designated by the originator, or (iii) issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for its expenses in the funds transfer and for incidental expenses and interest losses, to the extent not covered by subsection (a) of this section, resulting from the improper execution. Except as provided in subsection (c) of this section, additional damages are not recoverable.

(c) In addition to the amounts payable under subsections (a) and (b) of this section, damages, including consequential damages, are recoverable to the extent provided in an express ((~~written~~)) agreement of the receiving bank, evidenced by a record.

(d) If a receiving bank fails to execute a payment order it was obliged by express agreement to execute, the receiving bank is liable to the sender for its expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express ((~~written~~)) agreement of the receiving bank, evidenced by a record, but are not otherwise recoverable.

(e) Reasonable attorneys' fees are recoverable if demand for compensation under subsection (a) or (b) of this section is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under subsection (d) of this section and the agreement does not provide for damages, reasonable attorneys' fees are recoverable if demand for compensation under subsection (d) of this section is made and refused before an action is brought on the claim.

(f) Except as stated in this section, the liability of a receiving bank under subsections (a) and (b) of this section may not be varied by agreement.

PART VI

Sec. 601. RCW 62A.5-104 and 2012 c 214 s 1702 are each amended to read as follows:

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a signed record ((~~and is authenticated (i) by a signature or (ii) in accordance with the agreement of the parties or the standard practice referred to in RCW 62A.5-108(e)~~)).

Sec. 602. RCW 62A.5-116 and 2012 c 214 s 1712 are each amended to read as follows:

(a) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed ((~~or otherwise authenticated~~)) by the affected parties ((~~in the manner provided in RCW 62A.5-104~~)) or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(b) Unless subsection (a) of this section applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one address is indicated, the person is considered to be located at the address from which the person's undertaking was issued.

(c) For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

(((~~(c)~~))) (d) A branch of a bank is considered to be located at the address indicated in the branch's undertaking. If more than one address is indicated, the branch is considered to be located at the address from which the undertaking was issued.

(e) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If (i) this Article would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b) of this section, (ii) the relevant undertaking incorporates rules of custom or practice, and (iii) there is conflict between this Article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in RCW 62A.5-103(c).

(((~~(d)~~))) (f) If there is conflict between this Article and Article 3, 4, 4A, or 9A, this Article governs.

(((~~(e)~~))) (g) The forum for settling disputes arising out of an undertaking within this Article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (a) of this section.

PART VII

Sec. 701. RCW 62A.7-102 and 2012 c 214 s 202 are each amended to read as follows:

(a) In this Article, unless the context otherwise requires:

(1) "Bailee" means a person that by a warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.

(2) "Carrier" means a person that issues a bill of lading.

(3) "Consignee" means a person named in a bill of lading to which or to whose order the bill promises delivery.

(4) "Consignor" means a person named in a bill of lading as the person from which the goods have been received for shipment.

(5) "Delivery order" means a record that contains an order to deliver goods directed to a warehouse, carrier, or other person that in the ordinary course of business issues warehouse receipts or bills of lading.

(6) [Reserved.]

(7) "Goods" means all things that are treated as movable for the purposes of a contract for storage or transportation.

(8) "Issuer" means a bailee that issues a document of title or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer's instructions.

(9) "Person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(10) [Reserved.]

(11) ((~~"Sign" means, with present intent to authenticate or adopt a record:~~

~~(A) To execute or adopt a tangible symbol; or~~

~~(B) To attach to or logically associate with the record an electronic sound, symbol, or process.~~)) [Reserved.]

(12) "Shipper" means a person that enters into a contract of transportation with a carrier.

(13) "Warehouse" means a person engaged in the business of storing goods for hire.

(b) Definitions in other articles applying to this Article and the sections in which they appear are:

(1) "Contract for sale", RCW 62A.2-106;

(2) "Lessee in ordinary course of business," RCW 62A.2A-103; and

(3) "Receipt" of goods, RCW 62A.2-103.

(c) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 702. RCW 62A.7-106 and 2012 c 214 s 206 are each amended to read as follows:

(a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subsection (a) of this section, and a person ((~~is deemed to have~~)) has control of an electronic document of title, if the document is created, stored, and ((~~assigned~~)) transferred in ((~~such~~)) a manner that:

(1) A single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in (4), (5), and (6) of this subsection, unalterable;

(2) The authoritative copy identifies the person asserting control as:

(A) The person to which the document was issued; or

(B) If the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) Copies or amendments that add or change an identified ((~~assignee~~)) transferee of the authoritative copy can be made only with the consent of the person asserting control;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) A system satisfies subsection (a) of this section, and a person has control of an electronic document of title, if an authoritative electronic copy of the document, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(1) Enables the person readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(2) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the person to which each authoritative electronic copy was issued or transferred; and

(3) Gives the person exclusive power, subject to subsection (d) of this section, to:

(A) Prevent others from adding or changing the person to which each authoritative electronic copy has been issued or transferred; and

(B) Transfer control of each authoritative electronic copy.

(d) Subject to subsection (e) of this section, a power is exclusive under subsection (c)(3)(A) and (B) of this section even if:

(1) The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits the use of the document of title or has a protocol that is programmed to cause a change, including a transfer or loss of control; or

(2) The power is shared with another person.

(e) A power of a person is not shared with another person under subsection (d)(2) of this section and the person's power is not exclusive if:

(1) The person can exercise the power only if the power also is exercised by the other person; and

(2) The other person:

(A) Can exercise the power without exercise of the power by the person; or

(B) Is the transferor to the person of an interest in the document of title.

(f) If a person has the powers specified in subsection (c)(3)(A) and (B) of this section, the powers are presumed to be exclusive.

(g) A person has control of an electronic document of title if another person, other than the transferor to the person of an interest in the document:

(1) Has control of the document and acknowledges that it has control on behalf of the person; or

(2) Obtains control of the document after having acknowledged that it will obtain control of the document on behalf of the person.

(h) A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

(i) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this Article or Article 9 of this title otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

PART VIII

Sec. 801. RCW 62A.8-102 and 2012 c 214 s 1401 are each amended to read as follows:

(1) In this Article:

(a) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

(b) "Bearer form," as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

(c) "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(d) "Certificated security" means a security that is represented by a certificate.

(e) "Clearing corporation" means:

(i) A person that is registered as a "clearing agency" under the federal securities laws;

(ii) A federal reserve bank; or

(iii) Any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including adoption of rules, are subject to regulation by a federal or state governmental authority.

(f) "Communicate" means to:

(i) Send a signed ((~~writing~~)) record; or

(ii) Transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(g) "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of RCW 62A.8-501(2) (b) or (c), that person is the entitlement holder.

(h) "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(i) "Financial asset," except as otherwise provided in RCW 62A.8-103, means:

(i) A security;

(ii) An obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article.

As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

(j) [Reserved.]

(k) "Indorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

(l) "Instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

(m) "Registered form," as applied to a certificated security, means a form in which:

(i) The security certificate specifies a person entitled to the security; and

(ii) A transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(n) "Securities intermediary" means:

(i) A clearing corporation; or

(ii) A person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(o) "Security," except as otherwise provided in RCW 62A.8-103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

(i) Which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) Which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and

(iii) Which:

(A) Is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(B) Is a medium for investment and by its terms expressly provides that it is a security governed by this Article.

(p) "Security certificate" means a certificate representing a security.

(q) "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5 of this Article.

(r) "Uncertificated security" means a security that is not represented by a certificate.

(2) ((~~Other~~)) The following definitions ((~~applying to~~)) in this Article and ((~~the sections in which they appear are~~)) other articles apply to this Article:

Appropriate person	RCW 62A.8-107
Control	RCW 62A.8-106

Controllable account	RCW 62A.9A-102
Controllable electronic record	Section 1002 of this act
Controllable payment intangible	RCW 62A.9A-102
Delivery	RCW 62A.8-301
Investment company security	RCW 62A.8-103
Issuer	RCW 62A.8-201
Overissue	RCW 62A.8-210
Protected purchaser	RCW 62A.8-303
Securities account	RCW 62A.8-501

(3) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

(4) The characterization of a person, business, or transaction for purposes of this Article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

Sec. 802. RCW 62A.8-103 and 2012 c 214 s 1403 are each amended to read as follows:

(1) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(2) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this Article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this Article and not by Article 3, even though it also meets the requirements of that Article. However, a negotiable instrument governed by Article 3 is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in RCW 62A.9A-102, is not a security or a financial asset.

(7) A document of title is not a financial asset unless RCW 62A.8-102(1)(i)(iii) applies.

(8) A controllable account, controllable electronic record, or controllable payment intangible is not a financial asset unless RCW 62A.8-102(1)(i)(iii) applies.

Sec. 803. RCW 62A.8-106 and 2000 c 250 s 9A-816 are each amended to read as follows:

(1) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(2) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(a) The certificate is indorsed to the purchaser or in blank by an effective indorsement; or

(b) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(3) A purchaser has "control" of an uncertificated security if:

(a) The uncertificated security is delivered to the purchaser; or

(b) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(4) A purchaser has "control" of a security entitlement if:

(a) The purchaser becomes the entitlement holder;

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; or

(c) Another person ((~~has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser~~)), other than the transferor to the purchaser of an interest in the security entitlement:

(i) Has control of the security entitlement and acknowledges that it has control on behalf of the purchaser; or

(ii) Obtains control of the security entitlement after having acknowledged that it will obtain control of the security entitlement on behalf of the purchaser.

(5) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(6) A purchaser who has satisfied the requirements of subsection (3) or (4) of this section has control even if the registered owner in the case of subsection (3) of this section or the entitlement holder in the case of subsection (4) of this section retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(7) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (3)(b) or (4)(b) of this section without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

(8) A person that has control under this section is not required to acknowledge that it has control on behalf of a purchaser.

(9) If a person acknowledges that it has or will obtain control on behalf of a purchaser, unless the person otherwise agrees or law other than this Article or

Article 9A of this title otherwise provides, the person does not owe any duty to the purchaser and is not required to confirm the acknowledgment to any other person.

Sec. 804. RCW 62A.8-110 and 2001 c 32 s 14 are each amended to read as follows:

(1) The local law of the issuer's jurisdiction, as specified in subsection (4) of this section, governs:

(a) The validity of a security;

(b) The rights and duties of the issuer with respect to registration of transfer;

(c) The effectiveness of registration of transfer by the issuer;

(d) Whether the issuer owes any duties to an adverse claimant to a security; and

(e) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(2) The local law of the securities intermediary's jurisdiction, as specified in subsection (5) of this section, governs:

(a) Acquisition of a security entitlement from the securities intermediary;

(b) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(c) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(d) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(3) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(4) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsection (1)(b) through (e) of this section.

(5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this Article, or Article 62A.9A RCW, that jurisdiction is the securities intermediary's jurisdiction.

(b) If (a) of this subsection does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(c) If neither (a) nor (b) of this subsection applies, and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at

an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(d) If (a), (b), and (c) of this subsection do not apply, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located.

(e) If (a), (b), (c), and (d) of this subsection do not apply, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.

(6) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other recordkeeping concerning the account.

(7) The local law of the issuer's jurisdiction or the securities intermediary's jurisdiction governs a matter or transaction specified in subsection (1) or (2) of this section even if the matter or transaction does not bear any relation to the jurisdiction.

Sec. 805. RCW 62A.8-303 and 1995 c 48 s 29 are each amended to read as follows:

(1) "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

(a) Gives value;

(b) Does not have notice of any adverse claim to the security; and

(c) Obtains control of the certificated or uncertificated security.

(2) ((~~In addition to acquiring the rights of a purchaser, a~~)) A protected purchaser also acquires its interest in the security free of any adverse claim.

PART IX

Sec. 901. RCW 62A.9A-102 and 2012 c 214 s 1502 are each amended to read as follows:

(a) **Article 9A definitions.** In this Article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2)(A) "Account," except as used in "account for," "account statement," "account to," "commodity account" in (14) of this subsection, "customer's account," "deposit account" in (29) of this subsection, "on account of," and "statement of account," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes controllable accounts and health-care-insurance receivables.

(B) The term does not include (i) ((~~rights to payment evidenced by chattel paper or an instrument~~)) chattel paper, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, ((~~or~~)) (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card, or (vii) rights to payment evidenced by an instrument.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the negotiable instrument ((~~constitutes part of~~)) evidences chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) ((~~Authenticated~~)) Signed by a secured party;

(B) Indicating the aggregate unpaid secured obligations as of a date not more than ((~~thirty-five~~)) 35 days earlier or ((~~thirty-five~~)) 35 days later than the date of the record; and

(C) Identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) Which secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) Rent on real property leased by a debtor in connection with its farming operation;

(B) Which is created by statute in favor of a person that:

(i) In the ordinary course of its business, furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) Leased real property to a debtor in connection with the debtor's farming operation; and

(C) Whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) Attaches to the minerals as extracted; or

(B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) ((~~"Authenticate" means:~~

~~(A) To sign; or~~

~~(B) With present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.~~)) [Reserved.]

(7A) "Assignee," except as used in "assignee for benefit of creditors," means a person (i) in whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not the obligation is outstanding or (ii) to which an account, chattel paper, payment intangible, or promissory note has been sold. The term includes a person to which a security interest has been transferred by a secured party.

(7B) "Assignor" means a person that (i) under a security agreement creates or provides for a security interest that secures an obligation or (ii) sells an account, chattel paper, payment intangible, or promissory note. The term includes a secured party that has transferred a security interest to another person.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means ((~~a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subsection, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term "chattel paper" does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper~~)):

(A) A right to payment of a monetary obligation secured by specific goods, if the right to payment and security agreement are evidenced by a record; or

(B) A right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation owed by the lessee in connection with the transaction giving rise to the lease, if:

(i) The right to payment and lease agreement are evidenced by a record; and

(ii) The predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

The term does not include a right to payment arising out of a charter or other contract involving the use or hire of a vessel or a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) Proceeds to which a security interest attaches;

(B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) Goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) The claimant is an organization; or

(B) The claimant is an individual, and the claim:

(i) Arose in the course of the claimant's business or profession; and

(ii) Does not include damages arising out of personal injury to, or the death of, an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) Is registered as a futures commission merchant under federal commodities law; or

(B) In the ordinary course of its business, provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) To send a written or other tangible record;

(B) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) The merchant:

(i) Deals in goods of that kind under a name other than the name of the person making delivery;

(ii) Is not an auctioneer; and

(iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) With respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) The goods are not consumer goods immediately before delivery; and

(D) The transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) An individual incurs a consumer obligation; and

(B) A security interest in consumer goods secures the obligation.

(25) "Consumer obligation" means an obligation which:

(A) Is incurred as part of a transaction entered into primarily for personal, family, or household purposes; and

(B) Arises from an extension of credit, or commitment to extend credit, in an aggregate amount not exceeding forty thousand dollars, or is secured by personal property used or expected to be used as a principal dwelling.

"Consumer obligor" means an obligor who is an individual and who incurred a consumer obligation.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs a consumer obligation, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(27A) "Controllable account" means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under section 1005 of this act of the controllable electronic record.

(27B) "Controllable payment intangible" means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under section 1005 of this act of the controllable electronic record.

(28) "Debtor" means:

(A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) A consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in RCW 62A.7-201(b).

(31) ((~~"Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.~~)) [Reserved.]

(31A) "Electronic money" means money in an electronic form.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; and

(ii) Aquatic goods produced in aquacultural operations;

(B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) Supplies used or produced in a farming operation; or

(D) Products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to RCW 62A.9A-519(a).

(37) "Filing office" means an office designated in RCW 62A.9A-501 as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to RCW 62A.9A-526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying RCW 62A.9A-502 (a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes controllable electronic records, payment intangibles, and software.

(43) [Reserved.]

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not

include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction or a manufactured home converted to real property under chapter 65.20 RCW.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card, (iv) writings that do not contain a promise or order to pay, ((~~or~~)) (v) writings that are expressly nontransferable or nonassignable, or (vi) writings that evidence chattel paper.

(48) "Inventory" means goods, other than farm products, which:

(A) Are leased by a person as lessor;

(B) Are held by a person for sale or lease or to be furnished under a contract of service;

(C) Are furnished by a person under a contract of service; or

(D) Consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) An assignee for benefit of creditors from the time of assignment;

(C) A trustee in bankruptcy from the date of the filing of the petition; or

(D) A receiver in equity from the time of appointment.

(53) "Manufactured home" means a manufactured home or mobile home as defined in RCW 46.04.302.

(54) [Reserved.]

(54A) "Money" has the meaning in RCW 62A.1-201(b)(24), but does not include (i) a deposit account or (ii) money in an electronic form that cannot be subjected to control under section 904 of this act.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under RCW 62A.9A-203(d) by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in RCW 62A.9A-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under RCW 62A.9A-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation. The term includes a controllable payment intangible.

(62) "Person related to," with respect to an individual, means:

(A) The spouse or state registered domestic partner of the individual;

(B) A brother, brother-in-law, sister, or sister-in-law of the individual;

(C) An ancestor or lineal descendant of the individual or the individual's spouse or state registered domestic partner; or

(D) Any other relative, by blood or by marriage or other law, of the individual or the individual's spouse or state registered domestic partner who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) An officer or director of, or a person performing similar functions with respect to, the organization;

(C) An officer or director of, or a person performing similar functions with respect to, a person described in (63)(A) of this subsection;

(D) The spouse or state registered domestic partner of an individual described in (63)(A), (B), or (C) of this subsection; or

(E) An individual who is related by blood or by marriage or other law to an individual described in (63)(A), (B), (C), or (D) of this subsection and shares the same home with the individual.

(64) "Proceeds", except as used in RCW 62A.9A-609(b), means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) Whatever is collected on, or distributed on account of, collateral;

(C) Rights arising out of collateral;

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record ((~~authenticated~~)) signed by a secured party, which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to RCW 62A.9A-620, 62A.9A-621, and 62A.9A-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) Debt securities are issued;

(B) All or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(C) The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Public organic record" means a record that is available to the public for inspection and is:

(A) A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) A record consisting of legislation enacted by the legislature of a state or the congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

(69) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(70) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible

medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(71) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

(72) "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(73) "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) A person that holds an agricultural lien;

(C) A consignor;

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) A person that holds a security interest arising under RCW 62A.2-401, 62A.2-505, 62A.2-711(3), 62A.2A-508(5), 62A.4-210, or 62A.5-118.

(74) "Security agreement" means an agreement that creates or provides for a security interest.

(75) ((~~"Send," in connection with a record or notification, means:~~

~~(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or~~

~~(B) To cause the record or notification to be received within the time that it would have been received if properly sent under (75)(A) of this subsection.~~)) [Reserved.]

(76) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(77) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(78) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(79) ((~~"Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.~~)) [Reserved.]

(79A) "Tangible money" means money in a tangible form.

(80) "Termination statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(81) "Transmitting utility" means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) Transmitting communications electrically, electromagnetically, or by light;

(C) Transmitting goods by pipeline or sewer; or

(D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) **Definitions in other articles.** "Control" as provided in RCW 62A.7-106 and the following definitions in other articles apply to this Article:

"Applicant."	RCW 62A.5-102.
"Beneficiary."	RCW 62A.5-102.
"Broker."	RCW 62A.8-102.
"Certificated security."	RCW 62A.8-102.
"Check."	RCW 62A.3-104.
"Clearing corporation."	RCW 62A.8-102.
"Contract for sale."	RCW 62A.2-106.
"Controllable electronic record."	Section 1002 of this act.
"Customer."	RCW 62A.4-104.
"Entitlement holder."	RCW 62A.8-102.
"Financial asset."	RCW 62A.8-102.
"Holder in due course."	RCW 62A.3-302.
"Issuer" with respect to documents of title.	RCW 62A.7-102.
"Issuer" with respect to a letter of credit or letter-of-credit right.	RCW 62A.5-102.
"Issuer" with respect to a security.	RCW 62A.8-201.
"Lease."	RCW 62A.2A-103.
"Lease agreement."	RCW 62A.2A-103.
"Lease contract."	RCW 62A.2A-103.
"Leasehold interest."	RCW 62A.2A-103.
"Lessee."	RCW 62A.2A-103.
"Lessee in ordinary course of business."	RCW 62A.2A-103.

"Lessor."	RCW 62A.2A-103.
"Lessor's residual interest."	RCW 62A.2A-103.
"Letter of credit."	RCW 62A.5-102.
"Merchant."	RCW 62A.2-104.
"Negotiable instrument."	RCW 62A.3-104.
"Nominated person."	RCW 62A.5-102.
"Note."	RCW 62A.3-104.
"Proceeds of a letter of credit."	RCW 62A.5-114.
"Protected purchaser."	RCW 62A.8-303.
"Prove."	RCW 62A.3-103.
"Qualifying purchaser."	Section 1002 of this act.
"Sale."	RCW 62A.2-106.
"Securities account."	RCW 62A.8-501.
"Securities intermediary."	RCW 62A.8-102.
"Security."	RCW 62A.8-102.
"Security certificate."	RCW 62A.8-102.
"Security entitlement."	RCW 62A.8-102.
"Uncertificated security."	RCW 62A.8-102.

(c) **Article 1 definitions and principles.** Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 902. RCW 62A.9A-104 and 2001 c 32 s 17 are each amended to read as follows:

(a) **Requirements for control.** A secured party has control of a deposit account if:

(1) The secured party is the bank with which the deposit account is maintained;

(2) The debtor, secured party, and bank have agreed in ((~~an authenticated~~)) a signed record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; ((~~or~~))

(3) The secured party becomes the bank's customer with respect to the deposit account; or

(4) Another person, other than the debtor:

(A) Has control of the deposit account and acknowledges that it has control on behalf of the secured party; or

(B) Obtains control of the deposit account after having acknowledged that it will obtain control of the deposit account on behalf of the secured party.

(b) **Debtor's right to direct disposition.** A secured party that has satisfied subsection (a) of this section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Sec. 903. RCW 62A.9A-105 and 2011 c 74 s 102 are each amended to read as follows:

(a) **General rule: Control of electronic copy of record evidencing chattel paper.** ((~~A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.~~

~~(b) **Specific facts giving control.** A system satisfies subsection (a) of this section if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:~~

~~(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in (4), (5), and (6) of this subsection, unalterable;~~

~~(2) The authoritative copy identifies the secured party as the assignee of the record or records;~~

~~(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;~~

~~(4) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party;~~

~~(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and~~

~~(6) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.~~)) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if a system employed for evidencing the assignment of interests in the chattel paper reliably establishes the purchaser as the person to which the authoritative electronic copy was assigned.

(b) **Single authoritative copy.** A system satisfies subsection (a) of this section if the record or records evidencing the chattel paper are created, stored, and assigned in a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in (4), (5), and (6) of this subsection, unalterable;

(2) The authoritative copy identifies the purchaser as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the purchaser or its designated custodian;

(4) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the purchaser;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) **One or more authoritative copies.** A system satisfies subsection (a) of this section, and a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if the electronic copy, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(1) Enables the purchaser readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(2) Enables the purchaser readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the assignee of the authoritative electronic copy; and

(3) Gives the purchaser exclusive power, subject to subsection (d) of this section, to:

(A) Prevent others from adding or changing an identified assignee of the authoritative electronic copy; and

(B) Transfer control of the authoritative electronic copy.

(d) **Meaning of exclusive.** Subject to subsection (e) of this section, a power is exclusive under subsection (c)(3)(A) and (B) of this section even if:

(1) The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits the use of the authoritative electronic copy or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) The power is shared with another person.

(e) **When power not shared with another person.** A power of a purchaser is not shared with another person under subsection (d)(2) of this section and the purchaser's power is not exclusive if:

(1) The purchaser can exercise the power only if the power also is exercised by the other person; and

(2) The other person:

(A) Can exercise the power without exercise of the power by the purchaser; or

(B) Is the transferor to the purchaser of an interest in the chattel paper.

(f) **Presumption of exclusivity of certain powers.** If a purchaser has the powers specified in subsection (c)(3)(A) and (B) of this section, the powers are presumed to be exclusive.

(g) **Obtaining control through another person.** A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if another person, other than the transferor to the purchaser of an interest in the chattel paper:

(1) Has control of the authoritative electronic copy and acknowledges that it has control on behalf of the purchaser; or

(2) Obtains control of the authoritative electronic copy after having acknowledged that it will obtain control of the electronic copy on behalf of the purchaser.

NEW SECTION. **Sec. 904.** A new section is added to chapter 62A.9A RCW to read as follows:

SECTION 9-105A: CONTROL OF ELECTRONIC MONEY.

(a) **General rule: Control of electronic money.** A person has control of electronic money if:

(1) The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded gives the person:

(A) Power to avail itself of substantially all the benefit from the electronic money; and

(B) Exclusive power, subject to subsection (b) of this section, to:

(i) Prevent others from availing themselves of substantially all the benefit from the electronic money; and

(ii) Transfer control of the electronic money to another person or cause another person to obtain control of other electronic money as a result of the transfer of the electronic money; and

(2) The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers under (1) of this subsection.

(b) **Meaning of exclusive.** Subject to subsection (c) of this section, a power is exclusive under subsection (a)(1)(B)(i) and (ii) of this section even if:

(1) The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded limits the use of the electronic money or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) The power is shared with another person.

(c) **When power not shared with another person.** A power of a person is not shared with another person under subsection (b)(2) of this section and the person's power is not exclusive if:

(1) The person can exercise the power only if the power also is exercised by the other person; and

(2) The other person:

(A) Can exercise the power without exercise of the power by the person; or

(B) Is the transferor to the person of an interest in the electronic money.

(d) **Presumption of exclusivity of certain powers.** If a person has the powers specified in subsection (a)(1)(B)(i) and (ii) of this section, the powers are presumed to be exclusive.

(e) **Control through another person.** A person has control of electronic money if another person, other than the transferor to the person of an interest in the electronic money:

(1) Has control of the electronic money and acknowledges that it has control on behalf of the person; or

(2) Obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person.

NEW SECTION. **Sec. 905.** A new section is added to chapter 62A.9A RCW to read as follows:

SECTION 9-107A: CONTROL OF CONTROLLABLE ELECTRONIC RECORD, CONTROLLABLE ACCOUNT, OR CONTROLLABLE PAYMENT INTANGIBLE.

(a) **Control under section 1005 of this act.** A secured party has control of a controllable electronic record as provided in section 1005 of this act.

(b) **Control of controllable account and controllable payment intangible.** A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible.

NEW SECTION. **Sec. 906.** A new section is added to chapter 62A.9A RCW to read as follows:

SECTION 9-107B: NO REQUIREMENT TO ACKNOWLEDGE OR CONFIRM; NO DUTIES.

(a) **No requirement to acknowledge.** A person that has control under RCW 62A.9A-104 or 62A.9A-105 or section 904 of this act is not required to acknowledge that it has control on behalf of another person.

(b) **No duties or confirmation.** If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

Sec. 907. RCW 62A.9A-203 and 2012 c 214 s 1503 are each amended to read as follows:

(a) **Attachment.** A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) **Enforceability.** Except as otherwise provided in subsections (c) through (i) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) Value has been given;

(2) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) One of the following conditions is met:

(A) The debtor has ((~~authenticated~~)) signed a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) The collateral is not a certificated security and is in the possession of the secured party under RCW 62A.9A-313 pursuant to the debtor's security agreement;

(C) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under RCW 62A.8-301 pursuant to the debtor's security agreement; ((~~or~~))

(D) The collateral is controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, ((~~electronic chattel paper,~~)) electronic documents, electronic money, investment property, or letter-of-credit rights, ((~~or electronic documents,~~)) and the secured party has control under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107 or section 904 or 905 of this act pursuant to the debtor's security agreement; or

(E) The collateral is chattel paper and the secured party has possession and control under section 922 of this act pursuant to the debtor's security agreement.

(c) **Other UCC provisions.** Subsection (b) of this section is subject to RCW 62A.4-210 on the security interest of a collecting bank, RCW 62A.5-118 on the security interest of a letter-of-credit issuer or nominated person, RCW 62A.9A-110 on a security interest arising under Article 2 or 2A, and RCW 62A.9A-206 on security interests in investment property.

(d) **When person becomes bound by another person's security agreement.** A person becomes bound as debtor by a security agreement entered

into by another person if, by operation of law other than this Article or by contract:

(1) The security agreement becomes effective to create a security interest in the person's property; or

(2) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) **Effect of new debtor becoming bound.** If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) The agreement satisfies subsection (b)(3) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) Another agreement is not necessary to make a security interest in the property enforceable.

(f) **Proceeds and supporting obligations.** The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by RCW 62A.9A-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) **Lien securing right to payment.** The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) **Security entitlement carried in securities account.** The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) **Commodity contracts carried in commodity account.** The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Sec. 908. RCW 62A.9A-204 and 2000 c 250 s 9A-204 are each amended to read as follows:

(a) **After-acquired collateral.** Except as otherwise provided in subsection (b) of this section, a security agreement may create or provide for a security interest in after-acquired collateral.

(b) **When after-acquired property clause not effective.** ((~~A~~)) Subject to subsection (b.1) of this section, a security interest does not attach, under a term constituting an after-acquired property clause, to:

(1) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten days after the secured party gives value; or

(2) A commercial tort claim.

(b.1) **Limitation on subsection (b)**. Subsection (b) of this section does not prevent a security interest from attaching:

(1) To consumer goods as proceeds under RCW 62A.9A-315(a) or commingled goods under RCW 62A.9A-336(c);

(2) To a commercial tort claim as proceeds under RCW 62A.9A-315(a); or

(3) Under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.

(c) **Future advances and other value.** A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or

promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

Sec. 909. RCW 62A.9A-207 and 2012 c 214 s 1504 are each amended to read as follows:

(a) **Duty of care when secured party in possession.** Except as otherwise provided in subsection (d) of this section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) **Expenses, risks, duties, and rights when secured party in possession.** Except as otherwise provided in subsection (d) of this section, if a secured party has possession of collateral:

(1) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) The secured party may use or operate the collateral:

(A) For the purpose of preserving the collateral or its value;

(B) As permitted by an order of a court having competent jurisdiction; or

(C) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) **Duties and rights when secured party in possession or control.** Except as otherwise provided in subsection (d) of this section, a secured party having possession of collateral or control of collateral under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107 or section 904 or 905 of this act:

(1) May hold as additional security any proceeds, except money or funds, received from the collateral;

(2) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) May create a security interest in the collateral.

(d) **Buyer of certain rights to payment.** If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) Subsection (a) of this section does not apply unless the secured party is entitled under an agreement:

(A) To charge back uncollected collateral; or

(B) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) Subsections (b) and (c) of this section do not apply.

Sec. 910. RCW 62A.9A-208 and 2012 c 214 s 1505 are each amended to read as follows:

(a) **Applicability of section.** This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) **Duties of secured party after receiving demand from debtor.** Within ((~~ten~~)) 10 days after receiving ((~~an authenticated~~)) a signed demand by the debtor:

(1) A secured party having control of a deposit account under RCW 62A.9A-104(a)(2) shall send to the bank with which the deposit account is maintained ((~~an authenticated statement~~)) a signed record that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) A secured party having control of a deposit account under RCW 62A.9A-104(a)(3) shall:

(A) Pay the debtor the balance on deposit in the deposit account; or

(B) Transfer the balance on deposit into a deposit account in the debtor's name;

(3) ((~~A secured party, other than a buyer, having control of electronic chattel paper under RCW 62A.9A-105 shall:~~

~~(A) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;~~

~~(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and~~

~~(C) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party~~)) A secured party, other than a buyer, having control under RCW 62A.9A-105 of an authoritative electronic copy of a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(4) A secured party having control of investment property under RCW 62A.8-106(4)(b) or 62A.9A-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained ((~~an authenticated~~)) a signed record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(5) A secured party having control of a letter-of-credit right under RCW 62A.9A-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party ((~~an authenticated~~)) a signed release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; ((~~and~~))

(6) ((~~A secured party having control of an electronic document shall:~~

~~(A) Give control of the electronic document to the debtor or its designated custodian;~~

~~(B) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the~~

~~secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and~~

~~(C) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party~~)) A secured party having control under RCW 62A.7-106 of an authoritative electronic copy of an electronic document of title shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(7) A secured party having control under section 904 of this act of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and

(8) A secured party having control under section 1005 of this act of a controllable electronic record, other than a buyer of a controllable account or controllable payment intangible evidenced by the controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.

Sec. 911. RCW 62A.9A-209 and 2011 c 74 s 707 are each amended to read as follows:

(a) **Applicability of section.** Except as otherwise provided in subsection (c) of this section, this section applies if:

(1) There is no outstanding secured obligation; and

(2) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) **Duties of secured party after receiving demand from debtor.** Within ((~~ten~~)) 10 days after receiving ((~~an authenticated~~)) a signed demand by the debtor, a secured party shall send to an account debtor that has received notification under RCW 62A.9A-406(a) or section 1006(b) of this act of an assignment to the secured party as assignee ((~~under RCW 62A.9A-406(a) an authenticated~~)) a signed record that releases the account debtor from any further obligation to the secured party.

(c) **Inapplicability to sales.** This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

Sec. 912. RCW 62A.9A-210 and 2000 c 250 s 9A-210 are each amended to read as follows:

(a) **Definitions.** In this section:

(1) "Request" means a record of a type described in (2), (3), or (4) of this subsection.

(2) "Request for an accounting" means a record ((~~authenticated~~)) signed by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(3) "Request regarding a list of collateral" means a record ((~~authenticated~~)) signed by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(4) "Request regarding a statement of account" means a record ((~~authenticated~~)) signed by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) **Duty to respond to requests.** Subject to subsections (c), (d), (e), and (f) of this section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen days after receipt:

(1) In the case of a request for an accounting, by ((~~authenticating~~)) signing and sending to the debtor an accounting; and

(2) In the case of a request regarding a list of collateral or a request regarding a statement of account, by ((~~authenticating~~)) signing and sending to the debtor an approval or correction.

(c) **Request regarding list of collateral; statement concerning type of collateral.** A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor ((~~an authenticated~~)) a signed record including a statement to that effect within ((~~fourteen~~)) 14 days after receipt.

(d) **Request regarding list of collateral; no interest claimed.** A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within ((~~fourteen~~)) 14 days after receipt by sending to the debtor ((~~an authenticated~~)) a signed record:

(1) Disclaiming any interest in the collateral; and

(2) If known to the recipient, providing the name and mailing address of any assignee of, or successor to, the recipient's interest in the collateral.

(e) **Request for accounting or regarding statement of account; no interest in obligation claimed.** A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor ((~~an authenticated~~)) a signed record:

(1) Disclaiming any interest in the obligations; and

(2) If known to the recipient, providing the name and mailing address of any assignee of, or successor to, the recipient's interest in the obligations.

(f) **Charges for responses.** A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding twenty-five dollars for each additional response.

Sec. 913. RCW 62A.9A-301 and 2012 c 214 s 1506 are each amended to read as follows:

Except as otherwise provided in RCW 62A.9A-303 through 62A.9A-306 and section 917 of this act, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4) of this section, while ((~~tangible~~)) negotiable tangible documents, goods, instruments, or tangible money((~~, or tangible chattel paper~~)) is located in a jurisdiction, the local law of that jurisdiction governs:

(A) Perfection of a security interest in the goods by filing a fixture filing;

(B) Perfection of a security interest in timber to be cut; and

(C) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

Sec. 914. RCW 62A.9A-304 and 2000 c 250 s 9A-304 are each amended to read as follows:

(a) **Law of bank's jurisdiction governs.** The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank even if the transaction does not bear any relation to the bank's jurisdiction.

(b) **Bank's jurisdiction.** The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this Article, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(2) If (1) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither (1) nor (2) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If (1) through (3) of this subsection do not apply, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If (1) through (4) of this subsection do not apply, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Sec. 915. RCW 62A.9A-305 and 2001 c 32 s 23 are each amended to read as follows:

(a) **Governing law: General rules.** Except as otherwise provided in subsection (c) of this section, the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection,

and the priority of a security interest in the certificated security represented thereby.

(2) The local law of the issuer's jurisdiction as specified in RCW 62A.8-110(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in RCW 62A.8-110(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(5) (2), (3), and (4) of this subsection apply even if the transaction does not bear any relation to the jurisdiction.

(b) **Commodity intermediary's jurisdiction.** The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this Article, or the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If (1) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither (1) nor (2) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(4) If (1) through (3) of this subsection do not apply, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If (1) through (4) of this subsection do not apply, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) **When perfection governed by law of jurisdiction where debtor located.** The local law of the jurisdiction in which the debtor is located governs:

(1) Perfection of a security interest in investment property by filing;

(2) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(3) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

NEW SECTION. **Sec. 916.** A new section is added to chapter 62A.9A RCW to read as follows:

SECTION 9-306A: LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN CHATTEL PAPER.

(a) **Chattel paper evidenced by authoritative electronic copy.** Except as provided in subsection (d) of this section, if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the chattel paper's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the chattel paper, even if the transaction does not bear any relation to the chattel paper's jurisdiction.

(b) **Chattel paper's jurisdiction.** The following rules determine the chattel paper's jurisdiction under this section:

(1) If the authoritative electronic copy of the record evidencing chattel paper, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this Article, or this title, that jurisdiction is the chattel paper's jurisdiction.

(2) If (1) of this subsection does not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this Article, or this title, that jurisdiction is the chattel paper's jurisdiction.

(3) If (1) and (2) of this subsection do not apply and the authoritative electronic copy, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

(4) If (1), (2), and (3) of this subsection do not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

(5) If (1) through (4) of this subsection do not apply, the chattel paper's jurisdiction is the jurisdiction in which the debtor is located.

(c) **Chattel paper evidenced by authoritative tangible copy.** If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic copy, while the authoritative tangible copy of the record evidencing chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(1) Perfection of a security interest in the chattel paper by possession under section 922 of this act; and

(2) The effect of perfection or nonperfection and the priority of a security interest in the chattel paper.

(d) **When perfection governed by law of jurisdiction where debtor located.** The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by filing.

NEW SECTION. **Sec. 917.** A new section is added to chapter 62A.9A RCW to read as follows:

SECTION 9-306B: LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN CONTROLLABLE ACCOUNTS, CONTROLLABLE ELECTRONIC RECORDS, AND CONTROLLABLE PAYMENT INTANGIBLES.

(a) **Governing law: General rules.** Except as provided in subsection (b) of this section, the local law of the controllable electronic record's jurisdiction specified in section 1007 (c) and (d) of this act governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable electronic record and a security interest in a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(b) **When perfection governed by law of jurisdiction where debtor located.** The local law of the jurisdiction in which the debtor is located governs:

(1) Perfection of a security interest in a controllable account, controllable electronic record, or controllable payment intangible by filing; and

(2) Automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible.

Sec. 918. RCW 62A.9A-310 and 2012 c 214 s 1508 are each amended to read as follows:

(a) **General rule: Perfection by filing.** Except as otherwise provided in subsections (b) and (d) of this section and RCW 62A.9A-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) **Exceptions: Filing not necessary.** The filing of a financing statement is not necessary to perfect a security interest:

(1) That is perfected under RCW 62A.9A-308 (d), (e), (f), or (g);

(2) That is perfected under RCW 62A.9A-309 when it attaches;

(3) In property subject to a statute, regulation, or treaty described in RCW 62A.9A-311(a);

(4) In goods in possession of a bailee which is perfected under RCW 62A.9A-312(d) (1) or (2);

(5) In certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under RCW 62A.9A-312 (e), (f), or (g);

(6) In collateral in the secured party's possession under RCW 62A.9A-313;

(7) In a certificated security which is perfected by delivery of the security certificate to the secured party under RCW 62A.9A-313;

(8) In controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, ((~~electronic chattel paper,~~)) electronic documents, investment property, or letter-of-credit rights which is perfected by control under RCW 62A.9A-314;

(8.1) In chattel paper which is perfected by possession and control under section 922 of this act;

(9) In proceeds which is perfected under RCW 62A.9A-315; or

(10) That is perfected under RCW 62A.9A-316.

(c) **Assignment of perfected security interest.** If a secured party assigns a perfected security interest or agricultural lien, a filing under this Article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(d) **Further exception: Filing not necessary for handler's lien.** The filing of a financing statement is not necessary to perfect the agricultural lien of a handler on orchard crops as provided in RCW 60.11.020(3).

Sec. 919. RCW 62A.9A-312 and 2012 c 214 s 1509 are each amended to read as follows:

(a) **Perfection by filing permitted.** A security interest in chattel paper, ((~~negotiable documents,~~)) controllable accounts, controllable electronic records, controllable payment intangibles, instruments, ((~~or~~)) investment property, or negotiable documents may be perfected by filing.

(b) **Control or possession of certain collateral.** Except as otherwise provided in RCW 62A.9A-315 (c) and (d) for proceeds:

(1) A security interest in a deposit account may be perfected only by control under RCW 62A.9A-314;

(2) And except as otherwise provided in RCW 62A.9A-308(d), a security interest in a letter-of-credit right may be perfected only by control under RCW 62A.9A-314; ((~~and~~))

(3) A security interest in tangible money may be perfected only by the secured party's taking possession under RCW 62A.9A-313; and

(4) A security interest in electronic money may be perfected only by control under RCW 62A.9A-314.

(c) **Goods covered by negotiable document.** While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) **Goods covered by nonnegotiable document.** While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) Issuance of a document in the name of the secured party;

(2) The bailee's receipt of notification of the secured party's interest; or

(3) Filing as to the goods.

(e) **Temporary perfection: New value.** A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of twenty days from the time it attaches to the extent that it arises for new value given under ((~~an authenticated~~)) a signed security agreement.

(f) **Temporary perfection: Goods or documents made available to debtor.** A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) Ultimate sale or exchange; or

(2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) **Temporary perfection: Delivery of security certificate or instrument to debtor.** A perfected security interest in a certificated security or instrument remains perfected for twenty days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) Ultimate sale or exchange; or

(2) Presentation, collection, enforcement, renewal, or registration of transfer.

(h) **Expiration of temporary perfection.** After the twenty-day period specified in subsection (e), (f), or (g) of this section expires, perfection depends upon compliance with this Article.

Sec. 920. RCW 62A.9A-313 and 2012 c 214 s 1511 are each amended to read as follows:

(a) **Perfection by possession or delivery.** Except as otherwise provided in subsection (b) of this section, a secured party may perfect a security interest in ((~~tangible negotiable documents,~~)) goods, instruments, negotiable tangible documents, or tangible money((~~, or tangible chattel paper~~)) by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under RCW 62A.8-301.

(b) **Goods covered by certificate of title.** With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in RCW 62A.9A-316(d).

(c) **Collateral in possession of person other than debtor.** With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) The person in possession ((~~authenticates~~)) signs a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) The person takes possession of the collateral after having ((~~authenticated~~)) signed a record acknowledging that it will hold possession of the collateral for the secured party's benefit.

(d) **Time of perfection by possession; continuation of perfection.** If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs ((~~no~~)) not earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) **Time of perfection by delivery; continuation of perfection.** A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under RCW 62A.8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) **Acknowledgment not required.** A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) **Effectiveness of acknowledgment; no duties or confirmation.** If a person acknowledges that it holds possession for the secured party's benefit:

(1) The acknowledgment is effective under subsection (c) of this section or RCW 62A.8-301(1), even if the acknowledgment violates the rights of a debtor; and

(2) Unless the person otherwise agrees or law other than this Article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) **Secured party's delivery to person other than debtor.** A secured party having possession of collateral does not relinquish possession by delivering the

collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) To hold possession of the collateral for the secured party's benefit; or

(2) To redeliver the collateral to the secured party.

(i) **Effect of delivery under subsection (h) of this section; no duties or confirmation.** A secured party does not relinquish possession, even if a delivery under subsection (h) of this section violates the rights of a debtor. A person to which collateral is delivered under subsection (h) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this Article otherwise provides.

Sec. 921. RCW 62A.9A-314 and 2012 c 214 s 1512 are each amended to read as follows:

(a) **Perfection by control.** A security interest in ((~~investment property, deposit accounts, letter-of-credit rights, electronic chattel paper, or electronic documents~~)) controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights may be perfected by control of the collateral under RCW 62A.7-106, 62A.9A-104, ((~~62A.9A-105,~~)) 62A.9A-106, or 62A.9A-107 or section 904 or 905 of this act.

(b) **Specified collateral: Time of perfection by control; continuation of perfection.** A security interest in ((~~deposit accounts, electronic chattel paper, letter-of-credit rights, or electronic documents~~)) controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, or letter-of-credit rights is perfected by control under RCW 62A.7-106, 62A.9A-104, ((~~62A.9A-105,~~)) or 62A.9A-107 or section 904 or 905 of this act not earlier than the time when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) **Investment property: Time of perfection by control; continuation of perfection.** A security interest in investment property is perfected by control under RCW 62A.9A-106 ((~~from~~)) not earlier than the time the secured party obtains control and remains perfected by control until:

(1) The secured party does not have control; and

(2) One of the following occurs:

(A) If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

NEW SECTION. **Sec. 922.** A new section is added to chapter 62A.9A RCW to read as follows:

SECTION 9-314A: PERFECTION BY POSSESSION AND CONTROL OF CHATTEL PAPER.

(a) **Perfection by possession and control.** A secured party may perfect a security interest in chattel paper by taking possession of each authoritative

tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the chattel paper.

(b) **Time of perfection; continuation of perfection.** A security interest is perfected under subsection (a) of this section not earlier than the time the secured party takes possession and obtains control and remains perfected under subsection (a) of this section only while the secured party retains possession and control.

(c) **Application of RCW 62A.9A-313 to perfection by possession of chattel paper.** RCW 62A.9A-313 (c) and (f) through (i) applies to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper.

Sec. 923. RCW 62A.9A-316 and 2011 c 74 s 203 are each amended to read as follows:

(a) **General rule: Effect on perfection of change in governing law.** A security interest perfected pursuant to the law of the jurisdiction designated in RCW 62A.9A-301(1) or 62A.9A-305(c) or section 916 or 917 of this act remains perfected until the earliest of:

(1) The time perfection would have ceased under the law of that jurisdiction;

(2) The expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) The expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) **Security interest perfected or unperfected under law of new jurisdiction.** If a security interest described in subsection (a) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in subsection (a) of this section, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) **Possessory security interest in collateral moved to new jurisdiction.** A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) Thereafter the collateral is brought into another jurisdiction; and

(3) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) **Goods covered by certificate of title from this state.** Except as otherwise provided in subsection (e) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) **When subsection (d) security interest becomes unperfected against purchasers.** A security interest described in subsection (d) of this section

becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under RCW 62A.9A-311(b) or 62A.9A-313 are not satisfied before the earlier of:

(1) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(2) The expiration of four months after the goods had become so covered.

(f) **Change in jurisdiction of chattel paper, controllable electronic record, bank, issuer, nominated person, securities intermediary, or commodity intermediary.** A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the chattel paper's jurisdiction, the controllable electronic record's jurisdiction, the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) The time the security interest would have become unperfected under the law of that jurisdiction; or

(2) The expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) **Subsection (f) of this section security interest perfected or unperfected under law of new jurisdiction.** If a security interest described in subsection (f) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in subsection (f) of this section, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(h) **Effect on filed financing statement of change in governing law.** The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in RCW 62A.9A-301(1) or 62A.9A-305(c) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

(2) If a security interest perfected by a financing statement that is effective under (1) of this subsection (h) becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in RCW 62A.9A-301(1) or 62A.9A-305(c) or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) **Effect of change in governing law on financing statement filed against original debtor.** If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in RCW 62A.9A-301(1) or 62A.9A-305(c) and the new debtor is located in another jurisdiction, the following rules apply:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under RCW 62A.9A-203(d), if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(2) A security interest perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in RCW 62A.9A-301(1) or 62A.9A-305(c) or the expiration of the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Sec. 924. RCW 62A.9A-317 and 2012 c 214 s 1514 are each amended to read as follows:

(a) **Conflicting security interests and rights of lien creditors.** A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under RCW 62A.9A-322; and

(2) Except as otherwise provided in subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:

(A) The security interest or agricultural lien is perfected; or

(B) One of the conditions specified in RCW 62A.9A-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) **Buyers that receive delivery.** Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of ((~~tangible chattel paper, tangible documents,~~)) goods, instruments, tangible documents, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) **Lessees that receive delivery.** Except as otherwise provided in subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) **Licensees and buyers of certain collateral.** ((~~A~~)) Subject to subsections (f) through (i) of this section, a licensee of a general intangible or a buyer, other than a secured party, of collateral other than ((~~tangible chattel paper, tangible documents,~~)) electronic money, goods, instruments, tangible documents, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) **Purchase-money security interest.** Except as otherwise provided in RCW 62A.9A-320 and 62A.9A-321, if a person files a financing statement with

respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

(f) **Buyers of chattel paper.** A buyer, other than a secured party, of chattel paper takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and:

(1) Receives delivery of each authoritative tangible copy of the record evidencing the chattel paper; and

(2) If each authoritative electronic copy of the record evidencing the chattel paper can be subjected to control under RCW 62A.9A-105, obtains control of each authoritative electronic copy.

(g) **Buyers of electronic documents.** A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the document can be subjected to control under RCW 62A.7-106, obtains control of each authoritative electronic copy.

(h) **Buyers of controllable electronic records.** A buyer of a controllable electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.

(i) **Buyers of controllable accounts and controllable payment intangibles.** A buyer, other than a secured party, of a controllable account or a controllable payment intangible takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable account or controllable payment intangible.

Sec. 925. RCW 62A.9A-323 and 2000 c 250 s 9A-323 are each amended to read as follows:

(a) **When priority based on time of advance.** Except as otherwise provided in subsection (c) of this section, for purposes of determining the priority of a perfected security interest under RCW 62A.9A-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) Is made while the security interest is perfected only:

(A) Under RCW 62A.9A-309 when it attaches; or

(B) Temporarily under RCW 62A.9A-312 (e), (f), or (g); and

(2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under RCW 62A.9A-309 or 62A.9A-312 (e), (f), or (g).

(b) **Lien creditor.** Except as otherwise provided in subsection (c) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five days after the person becomes a lien creditor unless the advance is made:

(1) Without knowledge of the lien; or

(2) Pursuant to a commitment entered into without knowledge of the lien.

(c) **Buyer of receivables.** Subsections (a) and (b) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(d) **Buyer of goods.** Except as otherwise provided in subsection (e) of this section, a buyer of goods ((~~other than a buyer in ordinary course of business~~)) takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the buyer's purchase; or

(2) Forty-five days after the purchase.

(e) **Advances made pursuant to commitment: Priority of buyer of goods.** Subsection (d) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five day period.

(f) **Lessee of goods.** Except as otherwise provided in subsection (g) of this section, a lessee of goods((~~, other than a lessee in ordinary course of business,~~)) takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the lease; or

(2) Forty-five days after the lease contract becomes enforceable.

(g) **Advances made pursuant to commitment: Priority of lessee of goods.** Subsection (f) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five day period.

Sec. 926. RCW 62A.9A-324 and 2000 c 250 s 9A-324 are each amended to read as follows:

(a) **General rule: Purchase-money priority.** Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in RCW 62A.9A-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty days thereafter.

(b) **Inventory purchase-money priority.** Subject to subsection (c) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in RCW 62A.9A-330, and, except as otherwise provided in RCW 62A.9A-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) The purchase-money secured party sends ((~~an authenticated~~)) a signed notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) **Holders of conflicting inventory security interests to be notified.** Subsections (b)(2) through (4) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase-money security interest is temporarily perfected without filing or possession under RCW 62A.9A-312(f), before the beginning of the twenty-day period thereunder.

(d) **Livestock purchase-money priority.** Subject to subsection (e) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in RCW 62A.9A-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) The purchase-money secured party sends ((~~an authenticated~~)) a signed notification to the holder of the conflicting security interest;

(3) The holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) **Holders of conflicting livestock security interests to be notified.** Subsections (d)(2) through (4) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) If the purchase-money security interest is temporarily perfected without filing or possession under RCW 62A.9A-312(f), before the beginning of the twenty-day period thereunder.

(f) **Software purchase-money priority.** Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in RCW 62A.9A-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) **Conflicting purchase-money security interests.** If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f) of this section:

(1) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) In all other cases, RCW 62A.9A-322(a) applies to the qualifying security interests.

NEW SECTION. **Sec. 927.** A new section is added to chapter 62A.9A RCW to read as follows:

SECTION 9-326A: PRIORITY OF SECURITY INTEREST IN CONTROLLABLE ACCOUNT, CONTROLLABLE ELECTRONIC RECORD, AND CONTROLLABLE PAYMENT INTANGIBLE.

A security interest in a controllable account, controllable electronic record, or controllable payment intangible held by a secured party having control of the account, electronic record, or payment intangible has priority over a conflicting security interest held by a secured party that does not have control.

Sec. 928. RCW 62A.9A-330 and 2000 c 250 s 9A-330 are each amended to read as follows:

(a) **Purchaser's priority: Security interest claimed merely as proceeds.** A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value ((~~and~~)), takes possession of each authoritative tangible copy of the record evidencing the chattel paper ((~~or~~)), and obtains control ((~~of~~)) under RCW 62A.9A-105 of each authoritative electronic copy of the record evidencing the chattel paper ((~~under RCW 62A.9A-105~~)); and

(2) The ((~~chattel paper does~~)) authoritative copies of the record evidencing the chattel paper do not indicate that ((~~it~~)) the chattel paper has been assigned to an identified assignee other than the purchaser.

(b) **Purchaser's priority: Other security interests.** A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value ((~~and~~)), takes possession of each authoritative tangible copy of the record evidencing the chattel paper ((~~or~~)), and obtains control ((~~of~~)) under RCW 62A.9A-105 of each authoritative electronic copy of the record evidencing the chattel paper ((~~under RCW 62A.9A-105~~)) in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) **Chattel paper purchaser's priority in proceeds.** Except as otherwise provided in RCW 62A.9A-327, a purchaser having priority in chattel paper under subsection (a) or (b) of this section also has priority in proceeds of the chattel paper to the extent that:

(1) RCW 62A.9A-322 provides for priority in the proceeds; or

(2) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) **Instrument purchaser's priority.** Except as otherwise provided in RCW 62A.9A-331(a), a purchaser of an instrument has priority over a security

interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) **Holder of purchase-money security interest gives new value.** For purposes of subsections (a) and (b) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) **Indication of assignment gives knowledge.** For purposes of subsections (b) and (d) of this section, if the authoritative copies of the record evidencing chattel paper or an instrument indicate((~~s~~)) that ((~~it~~)) the chattel paper or instrument has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Sec. 929. RCW 62A.9A-331 and 2001 c 32 s 30 are each amended to read as follows:

(a) **Rights under Articles 3, 7, ((~~and~~)) 8, and 12 not limited.** This Article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, ((~~or~~)) a protected purchaser of a security, or a qualifying purchaser of a controllable account, controllable electronic record, or controllable payment intangible. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, ((~~and~~)) 8, and 12.

(b) **Protection under Articles 8 and 12.** This Article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Article 8 or 12.

(c) **Filing not notice.** Filing under this Article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b) of this section.

Sec. 930. RCW 62A.9A-332 and 2000 c 250 s 9A-332 are each amended to read as follows:

(a) **Transferee of tangible money.** A transferee of tangible money takes the money free of a security interest ((~~unless the transferee acts~~)) if the transferee receives possession of the money without acting in collusion with the debtor in violating the rights of the secured party.

(b) **Transferee of funds from deposit account.** A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account ((~~unless the transferee acts~~)) if the transferee receives possession of the money without acting in collusion with the debtor in violating the rights of the secured party.

(c) **Transferee of electronic money.** A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.

Sec. 931. RCW 62A.9A-334 and 2001 c 32 s 32 are each amended to read as follows:

(a) **Security interest in fixtures under this Article.** A security interest under this Article may be created in goods that are fixtures or may continue in

goods that become fixtures. A security interest does not exist under this Article in ordinary building materials incorporated into an improvement on land.

(b) **Security interest in fixtures under real-property law.** This Article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) **General rule: Subordination of security interest in fixtures.** In cases not governed by subsections (d) through (h) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) **Fixtures purchase-money priority.** Except as otherwise provided in subsection (h) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in, or is in possession of, the real property and:

(1) The security interest is a purchase-money security interest;

(2) The interest of the encumbrancer or owner arises before the goods become fixtures; and

(3) The security interest is perfected by a fixture filing before the goods become fixtures or within twenty days thereafter.

(e) **Priority of security interest in fixtures over interests in real property.** A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(A) Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(B) Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) Before the goods become fixtures, the security interest is perfected by any method permitted by this Article and the fixtures are readily removable:

(A) Factory or office machines;

(B) Equipment that is not primarily used or leased for use in the operation of the real property; or

(C) Replacements of domestic appliances that are consumer goods; or

(3) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article.

(f) **Priority based on consent, disclaimer, or right to remove.** A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The encumbrancer or owner has, in ((~~an authenticated~~)) a signed record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) The debtor has a right to remove the goods as against the encumbrancer or owner.

(g) **Continuation of subsection (f)(2) priority.** The priority of the security interest under subsection (f)(2) of this section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) **Priority of construction mortgage.** A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f) of this section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) **Priority of security interest in crops.** A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(j) **Subsection (i) prevails.** Subsection (i) of this section prevails over inconsistent provisions of any other statute except RCW 60.11.050.

Sec. 932. RCW 62A.9A-341 and 2000 c 250 s 9A-341 are each amended to read as follows:

Except as otherwise provided in RCW 62A.9A-340(c), and unless the bank otherwise agrees in ((~~an authenticated~~)) a signed record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

Sec. 933. RCW 62A.9A-404 and 2000 c 250 s 9A-404 are each amended to read as follows:

(a) **Assignee's rights subject to terms, claims, and defenses; exceptions.** Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e) of this section, the rights of an assignee are subject to:

(1) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment ((~~authenticated~~)) signed by the assignor or the assignee.

(b) **Account debtor's claim reduces amount owed to assignee.** Subject to subsection (c) of this section, and except as otherwise provided in subsection (d) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) of this section only to reduce the amount the account debtor owes.

(c) **Rule for individual under other law.** This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) **Omission of required statement in consumer transaction.** In a consumer transaction, if a record evidences the account debtor's obligation, law other than this Article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) **Inapplicability to health-care-insurance receivable.** This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 934. RCW 62A.9A-406 and 2011 c 74 s 301 are each amended to read as follows:

(a) **Discharge of account debtor; effect of notification.** Subject to subsections (b) through (((~~(j)~~))) (l) of this section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, ((~~authenticated~~)) signed by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) **When notification ineffective.** Subject to subsections (h) and (l) of this section, notification is ineffective under subsection (a) of this section:

(1) If it does not reasonably identify the rights assigned;

(2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this Article; or

(3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) A portion has been assigned to another assignee; or

(C) The account debtor knows that the assignment to that assignee is limited.

(c) **Proof of assignment.** Subject to subsections (h) and (l) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a) of this section.

(d) **Term restricting assignment generally ineffective.** In this subsection, "promissory note" includes a negotiable instrument that evidences chattel paper. Except as otherwise provided in subsections (e) and (k) of this section and RCW 62A.2A-303 and 62A.9A-407, and subject to subsections (h) and (j) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the

creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) **Inapplicability of subsection (d) of this section to certain sales.** Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under RCW 62A.9A-610 or an acceptance of collateral under RCW 62A.9A-620.

(f) [Reserved.]

(g) **Subsection (b)(3) of this section not waivable.** Subject to subsections (h) and (l) of this section, an account debtor may not waive or vary its option under subsection (b)(3) of this section.

(h) **Rule for individual under other law.** This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) **Inapplicability to health-care-insurance receivable.** This section does not apply to an assignment of a health-care-insurance receivable.

(j)(1) **Inapplicability of subsection (d) of this section to certain transactions.** After July 1, 2003, subsection (d) of this section does not apply to the assignment or transfer of or creation of a security interest in:

(A) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. Sec. 104(a)(1) or (2); or

(B) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. Sec. 1396p(d)(4).

(2) This subsection will not affect a transfer of structured settlement payment rights under chapter 19.205 RCW.

(k) **Inapplicability to interests in certain entities.** Subsection (d) of this section does not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

(l) **Inapplicability of certain subsections.** Subsections (a), (b), (c), and (g) of this section do not apply to a controllable account or controllable payment intangible.

Sec. 935. RCW 62A.9A-408 and 2011 c 74 s 302 are each amended to read as follows:

(a) **Term restricting assignment generally ineffective.** Except as otherwise provided in subsections (b) and (f) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) **Applicability of subsection (a) of this section to sales of certain rights to payment.** Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under RCW 62A.9A-610 or an acceptance of collateral under RCW 62A.9A-620.

(c) **Legal restrictions on assignment generally ineffective.** ((~~A~~)) Except as otherwise provided in subsection (f) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) **Limitation on ineffectiveness under subsections (a) and (c) of this section.** To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) of this section would be effective under law other than this Article but is ineffective under subsection (a) or (c) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e)(1) **Inapplicability of subsections (a) and (c) of this section to certain payment intangibles.** After July 1, 2003, subsections (a) and (c) of this section do not apply to the assignment or transfer of or creation of a security interest in:

(A) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. Sec. 104(a)(1) or (2); or

(B) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. Sec. 1396p(d)(4).

(2) This subsection will not affect a transfer of structured settlement payment rights under chapter 19.205 RCW.

(f) **Inapplicability to interests in certain entities.** This section does not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

(g) **"Promissory note."** In this section, "promissory note" includes a negotiable instrument that evidences chattel paper.

Sec. 936. RCW 62A.9A-509 and 2001 c 32 s 36 are each amended to read as follows:

(a) **Person entitled to file record.** A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) The debtor authorizes the filing in ((~~an authenticated~~)) a signed record or pursuant to subsection (b) or (c) of this section; or

(2) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) **Security agreement as authorization.** By ((~~authenticating~~)) signing or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) Property that becomes collateral under RCW 62A.9A-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) **Acquisition of collateral as authorization.** By acquiring collateral in which a security interest or agricultural lien continues under RCW 62A.9A-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under RCW 62A.9A-315(a)(2).

(d) **Person entitled to file certain amendments.** A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by RCW 62A.9A-513 (a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) **Multiple secured parties of record.** If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d) of this section.

Sec. 937. RCW 62A.9A-513 and 2001 c 32 s 37 are each amended to read as follows:

(a) **Consumer goods.** A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) The debtor did not authorize the filing of the initial financing statement.

(b) **Time for compliance with subsection (a) of this section.** To comply with subsection (a) of this section, a secured party shall cause the secured party of record to file the termination statement:

(1) Within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) If earlier, within ((~~twenty~~)) 20 days after the secured party receives ((~~an authenticated~~)) a signed demand from a debtor.

(c) **Other collateral.** In cases not governed by subsection (a) of this section, within ((~~twenty~~)) 20 days after a secured party receives ((~~an authenticated~~)) a signed demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) The debtor did not authorize the filing of the initial financing statement.

(d) **Effect of filing termination statement.** Except as otherwise provided in RCW 62A.9A-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in RCW 62A.9A-510, for purposes of RCW 62A.9A-519(g), 62A.9A-522(a), and 62A.9A-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

Sec. 938. RCW 62A.9A-601 and 2012 c 214 s 1518 are each amended to read as follows:

(a) **Rights of secured party after default.** After default, a secured party has the rights provided in this part and, except as otherwise provided in RCW 62A.9A-602, those provided by agreement of the parties. A secured party:

(1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) **Rights and duties of secured party in possession or control.** A secured party in possession of collateral or control of collateral under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107 or section 904 or 905 of this act has the rights and duties provided in RCW 62A.9A-207.

(c) **Rights cumulative; simultaneous exercise.** The rights under subsections (a) and (b) of this section are cumulative and may be exercised simultaneously.

(d) **Rights of debtor and obligor.** Except as otherwise provided in subsection (g) of this section and RCW 62A.9A-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) **Lien of levy after judgment.** If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) The date of perfection of the security interest or agricultural lien in the collateral;

(2) The date of filing a financing statement covering the collateral; or

(3) Any date specified in a statute under which the agricultural lien was created.

(f) **Execution sale.** A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

(g) **Consignor or buyer of certain rights to payment.** Except as otherwise provided in RCW 62A.9A-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(h) **Enforcement restrictions.** All rights and remedies provided in this part with respect to promissory notes or an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, are subject to RCW 62A.9A-408 to the extent applicable.

Sec. 939. RCW 62A.9A-605 and 2000 c 250 s 9A-605 are each amended to read as follows:

((~~A~~)) (a) **In general: No duty owed by secured party.** Except as provided in subsection (b) of this section, a secured party does not owe a duty based on its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

(A) That the person is a debtor or obligor;

(B) The identity of the person; and

(C) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) That the person is a debtor; and

(B) The identity of the person.

(b) **Exception: Secured party owes duty to debtor or obligor.** A secured party owes a duty based on its status as a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account,

controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(1) The person is a debtor or obligor; and

(2) The secured party knows that the information in subsection (a)(1)(A), (B), or (C) of this section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

Sec. 940. RCW 62A.9A-608 and 2001 c 32 s 41 are each amended to read as follows:

(a) **Application of proceeds, surplus, and deficiency if obligation secured.** If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under RCW 62A.9A-607 in the following order to:

(A) The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorneys' fees and legal expenses incurred by the secured party;

(B) The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives ((~~an authenticated~~)) a signed demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under (1)(C) of this subsection.

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under RCW 62A.9A-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) **No surplus or deficiency in sales of certain rights to payment.** If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Sec. 941. RCW 62A.9A-611 and 2011 c 74 s 724 are each amended to read as follows:

(a) **"Notification date."** In this section, "notification date" means the earlier of the date on which:

(1) A secured party sends to the debtor and any secondary obligor an ((~~authenticated~~)) a signed notification of disposition; or

(2) The debtor and any secondary obligor waive the right to notification.

(b) **Notification of disposition required.** Except as otherwise provided in subsection (d) of this section, a secured party that disposes of collateral under

RCW 62A.9A-610 shall send to the persons specified in subsection (c) of this section a reasonable ((~~authenticated~~)) signed notification of disposition.

(c) **Persons to be notified.** To comply with subsection (b) of this section, the secured party shall send ((~~an authenticated~~)) a signed notification of disposition to:

(1) The debtor;

(2) Any secondary obligor; and

(3) If the collateral is other than consumer goods:

(A) Any other secured party or lienholder that, ((~~ten~~)) 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) Identified the collateral;

(ii) Was indexed under the debtor's name as of that date; and

(iii) Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(B) Any other secured party that, ((~~ten~~)) 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in RCW 62A.9A-311(a).

(d) **Subsection (b) of this section inapplicable: Perishable collateral; recognized market.** Subsection (b) of this section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) **Compliance with subsection (c)(3)(A) of this section.** A secured party complies with the requirement for notification prescribed by subsection (c)(3)(A) of this section if:

(1) Not later than ((~~twenty~~)) 20 days or earlier than ((~~thirty~~)) 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(A) of this section; and

(2) Before the notification date, the secured party:

(A) Did not receive a response to the request for information; or

(B) Received a response to the request for information and sent ((~~an authenticated~~)) a signed notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

Sec. 942. RCW 62A.9A-613 and 2001 c 32 s 42 are each amended to read as follows:

(a) **Contents and form of notification.** Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) Describes the debtor and the secured party;

(B) Describes the collateral that is the subject of the intended disposition;

(C) States the method of intended disposition;

(D) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(E) States the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subsection (1) of this section are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subsection (1) of this section are sufficient, even if the notification includes:

(A) Information not specified by subsection (1) of this section; or

(B) Minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in RCW 62A.9A-614(a)(3), when completed in accordance with the instructions in subsection (b) of this section and RCW 62A.9A-614(b), each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

((~~To: [*Name of debtor, obligor, or other person to which the notification is sent*]~~

~~From: [*Name, address, and telephone number of secured party*]~~

~~Name of Debtor(s): [*Include only if debtor(s) are not an addressee*]~~

~~[*For a public disposition:*]~~

~~We will sell [or lease or license, *as applicable*] the [*describe collateral*] [to the highest qualified bidder] in public as follows:~~

~~Day and Date:~~

~~Time:~~

~~Place:~~

~~[*For a private disposition:*]~~

~~We will sell [or lease or license, *as applicable*] the [*describe collateral*] privately sometime after [*day and date*].~~

~~You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, *as applicable*] [for a charge of $_____]. You may request an accounting by calling us at [*telephone number*].~~))

To: (Name of debtor, obligor, or other person to which the notification is sent)

From: (Name, address, and telephone number of secured party)

{1} Name of any debtor that is not an addressee: (Name of each debtor)

{2} We will sell (describe collateral) (to the highest qualified bidder) at public sale. A sale could include a lease or license. The sale will be held as follows:

(Date)

(Time)

(Place)

{3} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

{4} You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell or, as applicable, lease or license.

{5} If you request an accounting you must pay a charge of $(amount).

{6} You may request an accounting by calling us at (telephone number).

[End of Form]

(b) **Instructions for form of notification.** The following instructions apply to the form of notification in subsection (a)(5) of this section:

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (a)(5) of this section. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete item {1} only if there is a debtor that is not an addressee of the notification and list the name or names.

(3) Include and complete either item {2}, if the notification relates to a public disposition of the collateral, or item {3}, if the notification relates to a private disposition of the collateral. If item {2} is included, include the words "to the highest qualified bidder" only if applicable.

(4) Include and complete items {4} and {6}.

(5) Include and complete item {5} only if the sender will charge the recipient for an accounting.

Sec. 943. RCW 62A.9A-614 and 2000 c 250 s 9A-614 are each amended to read as follows:

(a) **Contents and form of notification.** In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) The information specified in RCW 62A.9A-613(a)(1);

(B) A description of any liability for a deficiency of the person to which the notification is sent;

(C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under RCW 62A.9A-623 is available; and

(D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed in accordance with the instructions in subsection (b) of this section, provides sufficient information:

((~~[*Name and address of secured party*]~~
~~[*Date*]~~

~~NOTICE OF OUR PLAN TO SELL PROPERTY~~

~~[*Name and address of any obligor who is also a debtor*]~~
~~Subject: [*Identification of Transaction*]~~

~~We have your [*describe collateral*], because you broke promises in our agreement.~~

~~[*For a public disposition:*]~~
~~We will sell [*describe collateral*] at public sale. A sale could include a lease or license. The sale will be held as follows:~~

~~Date: _____~~
~~Time: _____~~
~~Place: _____~~
~~You may attend the sale and bring bidders if you want.~~

~~[*For a private disposition:*]~~
~~We will sell [*describe collateral*] at private sale sometime after [*date*]. A sale could include a lease or license.~~

~~The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you [*will or will not, as applicable*] still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.~~

~~You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at [*telephone number*].~~

~~If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at [*telephone number*] [or write us at [*secured party's address*]] and request a written explanation. [We will charge you $ _____ for the explanation if we sent you another written explanation of the amount you owe us within the last six months.]~~

~~If you need more information about the sale call us at [*telephone number*] [or write us at [*secured party's address*]].~~

~~We are sending this notice to the following other people who have an interest in [*describe collateral*] or who owe money under your agreement:~~
~~[*Names of all other debtors and obligors, if any*])~~

(Name and address of secured party)
(Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

(Name and address of any obligor who is also a debtor)

Subject: (Identify transaction)

We have your (describe collateral), because you broke promises in our agreement.

{1} We will sell (describe collateral) at public sale. A sale could include a lease or license. The sale will be held as follows:

(Date)

(Time)

(Place)

You may attend the sale and bring bidders if you want.

{2} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

{3} The money that we get from the sale, after paying our costs, will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

{4} You can get the property back at any time before we sell it by paying us the full amount you owe, not just the past due payments, including our expenses. To learn the exact amount you must pay, call us at (telephone number).

{5} If you want us to explain to you in (writing) (writing or in (description of electronic record)) (description of electronic record) how we have figured the

amount that you owe us, {6} call us at (telephone number) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method)) {7} and request (a written explanation) (a written explanation or an explanation in (description of electronic record)) (an explanation in (description of electronic record)).

{8} We will charge you $ (amount) for the explanation if we sent you another written explanation of the amount you owe us within the last six months.

{9} If you need more information about the sale (call us at (telephone number)) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method)).

{10} We are sending this notice to the following other people who have an interest in (describe collateral) or who owe money under your agreement:

(Names of all other debtors and obligors, if any)

[End of Form]

(b) **Instructions for form of notification.** The following instructions apply to the form of notification in subsection (a)(3) of this section:

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (a)(3) of this section. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete either item {1}, if the notification relates to a public disposition of the collateral, or item {2}, if the notification relates to a private disposition of the collateral.

(3) Include and complete items {3}, {4}, {5}, {6}, and {7}.

(4) In item {5}, include and complete any one of the three alternative methods for the explanation—writing, writing or electronic record, or electronic record.

(5) In item {6}, include the telephone number. In addition, the sender may include and complete either or both of the two additional alternative methods of communication—writing or electronic communication—for the recipient of the notification to communicate with the sender. Neither of the two additional methods of communication is required to be included.

(6) In item {7}, include and complete the method or methods for the explanation—writing, writing or electronic record, or electronic record—included in item {5}.

(7) Include and complete item {8} only if a written explanation is included in item {5} as a method for communicating the explanation and the sender will charge the recipient for another written explanation.

(8) In item {9}, include either the telephone number or the address or both the telephone number and the address. In addition, the sender may include and complete the additional method of communication—electronic communication—for the recipient of the notification to communicate with the sender. The additional method of electronic communication is not required to be included.

(9) If item {10} does not apply, insert "None" after "agreement:".

(((~~(4)~~))) (c)(1) A notification in the form of (([~~subsection~~])) subsection (a)(3) of this section is sufficient, even if additional information appears at the end of the form.

(((~~(5)~~))) (2) A notification in the form of (([~~subsection~~])) subsection (a)(3) of this section is sufficient, even if it includes errors in information not required by (([~~subsection~~])) subsection (a)(1) of this section, unless the error is misleading with respect to rights arising under this Article.

(((~~(6)~~))) (3) If a notification under this section is not in the form of (([~~subsection~~])) subsection (a)(3) of this section, law other than this Article determines the effect of including information not required by (([~~subsection~~])) subsection (a)(1) of this section.

Sec. 944. RCW 62A.9A-615 and 2001 c 32 s 43 are each amended to read as follows:

(a) **Application of proceeds.** A secured party shall apply or pay over for application the cash proceeds of disposition under RCW 62A.9A-610 in the following order to:

(1) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorneys' fees and legal expenses incurred by the secured party;

(2) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) The secured party receives from the holder of the subordinate security interest or other lien ((~~an authenticated~~)) a signed demand for proceeds before distribution of the proceeds is completed; and

(B) In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) A secured party that is a consignor of the collateral if the secured party receives from the consignor ((~~an authenticated~~)) a signed demand for proceeds before distribution of the proceeds is completed.

(b) **Proof of subordinate interest.** If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3) of this section.

(c) **Application of noncash proceeds.** A secured party need not apply or pay over for application noncash proceeds of disposition under RCW 62A.9A-610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) **Surplus or deficiency if obligation secured.** If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) of this section and permitted by subsection (c) of this section:

(1) Unless subsection (a)(4) of this section requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) The obligor is liable for any deficiency.

(e) **No surplus or deficiency in sales of certain rights to payment.** If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) The debtor is not entitled to any surplus; and

(2) The obligor is not liable for any deficiency.

(f) [Reserved.]

(g) **Cash proceeds received by junior secured party.** A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) Takes the cash proceeds free of the security interest or other lien;

(2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Sec. 945. RCW 62A.9A-616 and 2000 c 250 s 9A-616 are each amended to read as follows:

(a) **Definitions.** In this section:

(1) "Explanation" means a ((~~writing~~)) record that:

(A) States the amount of the surplus or deficiency;

(B) Provides an explanation in accordance with subsection (c) of this section of how the secured party calculated the surplus or deficiency;

(C) States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

(D) Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) "Request" means a record:

(A) ((~~Authenticated~~)) Signed by a debtor or consumer obligor;

(B) Requesting that the recipient provide an explanation; and

(C) Sent after disposition of the collateral under RCW 62A.9A-610.

(b) **Explanation of calculation.** In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under RCW 62A.9A-615, the secured party shall:

(1) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) Before or when the secured party accounts to the debtor and pays any surplus or first makes ((~~written~~)) demand in a record on the consumer obligor after the disposition for payment of the deficiency; and

(B) Within ((~~fourteen~~)) 14 days after receipt of a request; or

(2) In the case of a consumer obligor who is liable for a deficiency, within ((~~fourteen~~)) 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) **Required information.** To comply with subsection (a)(1)(B) of this section, ((~~a writing~~)) an explanation must provide the following information in the following order:

(1) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of

unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) If the secured party takes or receives possession of the collateral after default, not more than thirty-five days before the secured party takes or receives possession; or

(B) If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five days before the disposition;

(2) The amount of proceeds of the disposition;

(3) The aggregate amount of the obligations after deducting the amount of proceeds;

(4) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorneys' fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in (1) of this subsection; and

(6) The amount of the surplus or deficiency.

(d) **Substantial compliance.** A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) of this section is sufficient, even if it includes minor errors that are not seriously misleading.

(e) **Charges for responses.** A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (b)(1) of this section. The secured party may require payment of a charge not exceeding twenty-five dollars for each additional response.

Sec. 946. RCW 62A.9A-619 and 2000 c 250 s 9A-619 are each amended to read as follows:

(a) **"Transfer statement."** In this section, "transfer statement" means a record ((~~authenticated~~)) signed by a secured party stating:

(1) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) That the secured party has exercised its post-default remedies with respect to the collateral;

(3) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(4) The name and mailing address of the secured party, debtor, and transferee.

(b) **Effect of transfer statement.** A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(1) Accept the transfer statement;

(2) Promptly amend its records to reflect the transfer; and

(3) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) **Transfer not a disposition; no relief of secured party's duties.** A transfer of the record or legal title to collateral to a secured party under subsection (b) of this section or otherwise is not of itself a disposition of collateral under this Article and does not of itself relieve the secured party of its duties under this Article.

Sec. 947. RCW 62A.9A-620 and 2000 c 250 s 9A-620 are each amended to read as follows:

(a) **Conditions to acceptance in satisfaction.** A secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) The debtor consents to the acceptance under subsection (c) of this section;

(2) The secured party does not receive, within the time set forth in subsection (d) of this section, a notification of objection to the proposal ((~~authenticated~~)) signed by:

(A) A person to which the secured party was required to send a proposal under RCW 62A.9A-621; or

(B) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal; and

(3) Subsection (e) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to RCW 62A.9A-624.

(b) **Purported acceptance ineffective.** A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) The secured party consents to the acceptance in ((~~an authenticated~~)) a signed record or sends a proposal to the debtor; and

(2) The conditions of subsection (a) of this section are met.

(c) **Debtor's consent.** For purposes of this section:

(1) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record ((~~authenticated~~)) signed after default; and

(2) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record ((~~authenticated~~)) signed after default or the secured party:

(A) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) Does not receive a notification of objection ((~~authenticated~~)) signed by the debtor within ((~~twenty~~)) 20 days after the proposal is sent.

(d) **Effectiveness of notification.** To be effective under subsection (a)(2) of this section, a notification of objection must be received by the secured party:

(1) In the case of a person to which the proposal was sent pursuant to RCW 62A.9A-621, within ((~~twenty~~)) 20 days after notification was sent to that person; and

(2) In other cases:

(A) Within ((~~twenty~~)) 20 days after the last notification was sent pursuant to RCW 62A.9A-621; or

(B) If a notification was not sent, before the debtor consents to the acceptance under subsection (c) of this section.

(e) **Mandatory disposition of consumer goods.** A secured party that has taken possession of collateral shall dispose of the collateral pursuant to RCW 62A.9A-610 within the time specified in subsection (f) of this section if:

(1) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) Sixty percent of the principal amount of the obligation secured has been paid in the case of a nonpurchase-money security interest in consumer goods.

(f) **Compliance with mandatory disposition requirement.** To comply with subsection (e) of this section, the secured party shall dispose of the collateral:

(1) Within ninety days after taking possession; or

(2) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and ((~~authenticated~~)) signed after default.

Sec. 948. RCW 62A.9A-621 and 2011 c 74 s 725 are each amended to read as follows:

(a) **Persons to which proposal to be sent.** A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) Any other secured party or lienholder that, ((~~ten~~)) 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) Identified the collateral;

(B) Was indexed under the debtor's name as of that date; and

(C) Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(2) Any other secured party that, ((~~ten~~)) 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in RCW 62A.9A-311(a).

(b) **Proposal to be sent to secondary obligor in partial satisfaction.** A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a) of this section.

Sec. 949. RCW 62A.9A-624 and 2000 c 250 s 9A-624 are each amended to read as follows:

(a) **Waiver of disposition notification.** A debtor may waive the right to notification of disposition of collateral under RCW 62A.9A-611 only by an agreement to that effect entered into and ((~~authenticated~~)) signed after default.

(b) **Waiver of mandatory disposition.** A debtor may waive the right to require disposition of collateral under RCW 62A.9A-620(e) only by an agreement to that effect entered into and ((~~authenticated~~)) signed after default.

(c) **Waiver of redemption right.** Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under

RCW 62A.9A-623 only by an agreement to that effect entered into and ((~~authenticated~~)) signed after default.

Sec. 950. RCW 62A.9A-628 and 2011 c 74 s 727 are each amended to read as follows:

(a) **Limitation of liability of secured party for noncompliance with article.** ((~~Unless~~)) Subject to subsection (f) of this section, unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(1) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this Article; and

(2) The secured party's failure to comply with this Article does not affect the liability of the person for a deficiency.

(b) **Limitation of liability based on status as secured party.** ((~~A~~)) Subject to subsection (f) of this section, a secured party is not liable because of its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

(A) That the person is a debtor or obligor;

(B) The identity of the person; and

(C) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) That the person is a debtor; and

(B) The identity of the person.

(c) **Limitation of liability if reasonable belief that transaction not a consumer-goods transaction or consumer transaction.** A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) An obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) **Limitation of liability for statutory damages.** A secured party is not liable to any person under RCW 62A.9A-625(c)(2) for its failure to comply with RCW 62A.9A-616.

(e) **Limitation of multiple liability for statutory damages.** A secured party is not liable under RCW 62A.9A-625(c)(2) more than once with respect to any one secured obligation.

(f) **Exception: Limitation of liability under subsections (a) and (b) of this section does not apply.** Subsections (a) and (b) of this section do not apply to limit the liability of a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(1) The person is a debtor or obligor; and

(2) The secured party knows that the information in subsection (b)(1)(A), (B), or (C) of this section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

PART X
ARTICLE 12
CONTROLLABLE ELECTRONIC RECORDS

NEW SECTION. **Sec. 1001.** SECTION 12-101: TITLE. This Article may be cited as uniform commercial code—controllable electronic records.

NEW SECTION. **Sec. 1002.** SECTION 12-102: DEFINITIONS. (a) **Article 12 definitions.** In this Article:

(1) "Controllable electronic record" means a record stored in an electronic medium that can be subjected to control under section 1005 of this act. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, electronic money, investment property, or a transferable record.

(2) "Qualifying purchaser" means a purchaser of a controllable electronic record or an interest in a controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

(3) "Transferable record" has the meaning provided for that term in:

(A) Section 201(a)(1) of the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7021(a)(1); or

(B) RCW 1.80.150(1).

(4) "Value" has the meaning provided in RCW 62A.3-303(a), as if references in that subsection to an "instrument" were references to a controllable account, controllable electronic record, or controllable payment intangible.

(b) **Definitions in Article 9A.** The definitions in Article 9A of this title of "account debtor," "controllable account," "controllable payment intangible," "chattel paper," "deposit account," "electronic money," and "investment property" apply to this Article.

(c) **Article 1 definitions and principles.** Article 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this Article.

NEW SECTION. **Sec. 1003.** SECTION 12-103: RELATION TO ARTICLE 9 AND CONSUMER LAWS. (a) **Article 9A governs in case of conflict.** If there is conflict between this Article and Article 9A of this title, Article 9A of this title governs.

(b) **Applicable consumer law and other laws.** A transaction subject to this Article is subject to any applicable rule of law that establishes a different rule for consumers and chapter 19.86 RCW.

NEW SECTION. **Sec. 1004.** SECTION 12-104: RIGHTS IN CONTROLLABLE ACCOUNT, CONTROLLABLE ELECTRONIC RECORD, AND CONTROLLABLE PAYMENT INTANGIBLE. (a) **Applicability of section to controllable account and controllable payment intangible.** This section applies to the acquisition and purchase of rights in a controllable account or controllable payment intangible, including the rights and

benefits under subsections (c), (d), (e), (g), and (h) of this section of a purchaser and qualifying purchaser, in the same manner this section applies to a controllable electronic record.

(b) **Control of controllable account and controllable payment intangible.** To determine whether a purchaser of a controllable account or a controllable payment intangible is a qualifying purchaser, the purchaser obtains control of the account or payment intangible if it obtains control of the controllable electronic record that evidences the account or payment intangible.

(c) **Applicability of other law to acquisition of rights.** Except as provided in this section, law other than this Article determines whether a person acquires a right in a controllable electronic record and the right the person acquires.

(d) **Shelter principle and purchase of limited interest.** A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer, except that a purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.

(e) **Rights of qualifying purchaser.** A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of a property right in the controllable electronic record.

(f) **Limitation of rights of qualifying purchaser in other property.** Except as provided in subsections (a) and (e) of this section for a controllable account and a controllable payment intangible or law other than this Article, a qualifying purchaser takes a right to payment, right to performance, or other interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance, or other interest in property.

(g) **No-action protection for qualifying purchaser.** An action may not be asserted against a qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable electronic record, whether the action is framed in conversion, replevin, constructive trust, equitable lien, or other theory.

(h) **Filing not notice.** Filing of a financing statement under Article 9A of this title is not notice of a claim of a property right in a controllable electronic record.

NEW SECTION. **Sec. 1005.** SECTION 12-105: CONTROL OF CONTROLLABLE ELECTRONIC RECORD. (a) **General rule: Control of controllable electronic record.** A person has control of a controllable electronic record if the electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded:

(1) Gives the person:

(A) Power to avail itself of substantially all the benefit from the electronic record; and

(B) Exclusive power, subject to subsection (b) of this section, to:

(i) Prevent others from availing themselves of substantially all the benefit from the electronic record; and

(ii) Transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and

(2) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers specified in (1) of this subsection.

(b) **Meaning of exclusive.** Subject to subsection (c) of this section, a power is exclusive under subsection (a)(1)(B)(i) and (ii) of this section even if:

(1) The controllable electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded limits the use of the electronic record or has a protocol programmed to cause a change, including a transfer or loss of control or a modification of benefits afforded by the electronic record; or

(2) The power is shared with another person.

(c) **When power not shared with another person.** A power of a person is not shared with another person under subsection (b)(2) of this section and the person's power is not exclusive if:

(1) The person can exercise the power only if the power also is exercised by the other person; and

(2) The other person:

(A) Can exercise the power without exercise of the power by the person; or

(B) Is the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(d) **Presumption of exclusivity of certain powers.** If a person has the powers specified in subsection (a)(1)(B)(i) and (ii) of this section, the powers are presumed to be exclusive.

(e) **Control through another person.** A person has control of a controllable electronic record if another person, other than the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record:

(1) Has control of the electronic record and acknowledges that it has control on behalf of the person; or

(2) Obtains control of the electronic record after having acknowledged that it will obtain control of the electronic record on behalf of the person.

(f) **No requirement to acknowledge.** A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

(g) **No duties or confirmation.** If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this Article or Article 9A of this title otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

NEW SECTION. **Sec. 1006.** SECTION 12-106: DISCHARGE OF ACCOUNT DEBTOR ON CONTROLLABLE ACCOUNT OR CONTROLLABLE PAYMENT INTANGIBLE. (a) **Discharge of account debtor.** An account debtor on a controllable account or controllable payment intangible may discharge its obligation by paying:

(1) The person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or

(2) Except as provided in subsection (b) of this section, a person that formerly had control of the controllable electronic record.

(b) **Content and effect of notification.** Subject to subsection (d) of this section, the account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

(1) Is signed by a person that formerly had control or the person to which control was transferred;

(2) Reasonably identifies the controllable account or controllable payment intangible;

(3) Notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;

(4) Identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office, or account number; and

(5) Provides a commercially reasonable method by which the account debtor is to pay the transferee.

(c) **Discharge following effective notification.** After receipt of a notification that complies with subsection (b) of this section, the account debtor may discharge its obligation by paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.

(d) **When notification ineffective.** Subject to subsection (h) of this section, notification is ineffective under subsection (b) of this section:

(1) Unless, before the notification is sent, the account debtor and the person that, at that time, had control of the controllable electronic record that evidences the controllable account or controllable payment intangible agree in a signed record to a commercially reasonable method by which a person may furnish reasonable proof that control has been transferred;

(2) To the extent an agreement between the account debtor and seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this Article; or

(3) At the option of the account debtor, if the notification notifies the account debtor to:

(A) Divide a payment;

(B) Make less than the full amount of an installment or other periodic payment; or

(C) Pay any part of a payment by more than one method or to more than one person.

(e) **Proof of transfer of control.** Subject to subsection (h) of this section, if requested by the account debtor, the person giving the notification under subsection (b) of this section seasonably shall furnish reasonable proof, using the method in the agreement referred to in subsection (d)(1) of this section, that control of the controllable electronic record has been transferred. Unless the person complies with the request, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a notification under subsection (b) of this section.

(f) **What constitutes reasonable proof.** A person furnishes reasonable proof under subsection (e) of this section that control has been transferred if the

person demonstrates, using the method in the agreement referred to in subsection (d)(1) of this section, that the transferee has the power to:

(1) Avail itself of substantially all the benefit from the controllable electronic record;

(2) Prevent others from availing themselves of substantially all the benefit from the controllable electronic record; and

(3) Transfer the powers specified in (1) and (2) of this subsection to another person.

(g) **Rights not waivable.** Subject to subsection (h) of this section, an account debtor may not waive or vary its rights under subsections (d)(1) and (e) of this section or its option under subsection (d)(3) of this section.

(h) **Rule for individual under other law.** This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

NEW SECTION. **Sec. 1007.** SECTION 12-107: GOVERNING LAW. (a) **Governing law: General rule.** Except as provided in subsection (b) of this section, the local law of a controllable electronic record's jurisdiction governs a matter covered by this Article.

(b) **Governing law: Section 1006 of this act.** For a controllable electronic record that evidences a controllable account or controllable payment intangible, the local law of the controllable electronic record's jurisdiction governs a matter covered by section 1006 of this act unless an effective agreement determines that the local law of another jurisdiction governs.

(c) **Controllable electronic record's jurisdiction.** The following rules determine a controllable electronic record's jurisdiction under this section:

(1) If the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this Article or this title, that jurisdiction is the controllable electronic record's jurisdiction.

(2) If (1) of this subsection does not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this Article or this title, that jurisdiction is the controllable electronic record's jurisdiction.

(3) If (1) and (2) of this subsection do not apply and the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(4) If (1), (2), and (3) of this subsection do not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that the controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(5) If (1) through (4) of this subsection do not apply, the controllable electronic record's jurisdiction is the District of Columbia.

(d) **Applicability of Article 12.** If subsection (c)(5) of this section applies and this Article 12 is not in effect in the District of Columbia without material modification, the governing law for a matter covered by this Article is the law of the District of Columbia as though Article 12 were in effect in the District of Columbia without material modification. In this subsection, "Article 12" means Article 12 of Uniform Commercial Code Amendments (2022).

(e) **Relation of matter or transaction to controllable electronic record's jurisdiction not necessary.** To the extent subsections (a) and (b) of this section provide that the local law of the controllable electronic record's jurisdiction governs a matter covered by this Article, that law governs even if the matter or a transaction to which the matter relates does not bear any relation to the controllable electronic record's jurisdiction.

(f) **Rights of purchasers determined at time of purchase.** The rights acquired under section 1004 of this act by a purchaser or qualifying purchaser are governed by the law applicable under this section at the time of purchase.

PART XI
ARTICLE A
TRANSITIONAL PROVISIONS FOR UNIFORM COMMERCIAL CODE AMENDMENTS (2022)
GENERAL PROVISIONS AND DEFINITIONS

NEW SECTION. **Sec. 1101.** SECTION A-101: TITLE. This Article may be cited as transitional provisions for Uniform Commercial Code Amendments (2022).

NEW SECTION. **Sec. 1102.** SECTION A-102: DEFINITIONS. (a) **Article A Definitions.** In this article:

(1) "Adjustment date" means July 1, 2025, or the date that is one year after the effective date of this section, whichever is later.

(2) "Article 12" means Article -- of this title (the new Article created by section 1202 of this act).

(3) "Article 12 property" means a controllable account, controllable electronic record, or controllable payment intangible.

(b) **Definitions in other articles.** The following definitions in other articles of this title apply to this Article.

"Controllable account." RCW 62A.9A-102.

"Controllable electronic record." Section 1002 of this act.

"Controllable payment intangible." RCW 62A.9A-102.

"Electronic money." RCW 62A.9A-102.

"Financing statement." RCW 62A.9A-102.

(c) **Article 1 definitions and principles.** Article 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this Article.

GENERAL TRANSITIONAL PROVISION

NEW SECTION. **Sec. 1103.** SECTION A-201: SAVING CLAUSE. Except as provided in sections 1104 through 1109 of this act, a transaction validly entered into before the effective date of this section and the rights, duties, and interests flowing from the transaction remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by

law other than this title or, if applicable, this title, as though this act had not taken effect.

TRANSITIONAL PROVISIONS FOR ARTICLES 9A AND 12

NEW SECTION. **Sec. 1104.** SECTION A-301: SAVING CLAUSE. (a) **Preeffective-date transaction, lien, or interest.** Except as provided in this part, Article 9A of this title as amended by this act and Article 12 apply to a transaction, lien, or other interest in property, even if the transaction, lien, or interest was entered into, created, or acquired before the effective date of this section.

(b) **Continuing validity.** Except as provided in subsection (c) of this section and sections 1005 through 1109 of this act:

(1) A transaction, lien, or interest in property that was validly entered into, created, or transferred before the effective date of this section and was not governed by this title, but would be subject to Article 9A of this title as amended by this act or Article 12 if it had been entered into, created, or transferred on or after the effective date of this section, including the rights, duties, and interests flowing from the transaction, lien, or interest, remains valid on and after the effective date of this section; and

(2) The transaction, lien, or interest may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that would apply if this act had not taken effect.

(c) **Preeffective-date proceeding.** This act does not affect an action, case, or proceeding commenced before the effective date of this section.

NEW SECTION. **Sec. 1105.** SECTION A-302: SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE. (a) **Continuing perfection: Perfection requirements satisfied.** A security interest that is enforceable and perfected immediately before the effective date of this section is a perfected security interest under this act if, on the effective date of this section, the requirements for enforceability and perfection under this act are satisfied without further action.

(b) **Continuing perfection: Enforceability or perfection requirements not satisfied.** If a security interest is enforceable and perfected immediately before the effective date of this section, but the requirements for enforceability or perfection under this act are not satisfied on the effective date of this section, the security interest:

(1) Is a perfected security interest until the earlier of the time perfection would have ceased under the law in effect immediately before the effective date of this section or the adjustment date;

(2) Remains enforceable thereafter only if the security interest satisfies the requirements for enforceability under RCW 62A.9A-203, as amended by this act, before the adjustment date; and

(3) Remains perfected thereafter only if the requirements for perfection under this act are satisfied before the time specified in (1) of this subsection.

NEW SECTION. **Sec. 1106.** SECTION A-303: SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE. A security interest that is enforceable immediately before the effective date of this section but is unperfected at that time:

(a) Remains an enforceable security interest until the adjustment date;

(b) Remains enforceable thereafter if the security interest becomes enforceable under RCW 62A.9A-203, as amended by this act, on the effective date of this section or before the adjustment date; and

(c) Becomes perfected:

(1) Without further action, on the effective date of this section if the requirements for perfection under this act are satisfied before or at that time; or

(2) When the requirements for perfection are satisfied if the requirements are satisfied after that time.

NEW SECTION. **Sec. 1107.** SECTION A-304: EFFECTIVENESS OF ACTIONS TAKEN BEFORE EFFECTIVE DATE. (a) **Preeffective-date action; attachment and perfection before adjustment date.** If action, other than the filing of a financing statement, is taken before the effective date of this section and the action would have resulted in perfection of the security interest had the security interest become enforceable before the effective date of this section, the action is effective to perfect a security interest that attaches under this act before the adjustment date. An attached security interest becomes unperfected on the adjustment date unless the security interest becomes a perfected security interest under this act before the adjustment date.

(b) **Preeffective-date filing.** The filing of a financing statement before the effective date of this section is effective to perfect a security interest on the effective date of this section to the extent the filing would satisfy the requirements for perfection under this act.

(c) **Preeffective-date enforceability action.** The taking of an action before the effective date of this section is sufficient for the enforceability of a security interest on the effective date of this section if the action would satisfy the requirements for enforceability under this act.

NEW SECTION. **Sec. 1108.** SECTION A-305: PRIORITY. (a) **Determination of priority.** Subject to subsections (b) and (c) of this section, this act determines the priority of conflicting claims to collateral.

(b) **Established priorities.** Subject to subsection (c) of this section, if the priorities of claims to collateral were established before the effective date of this section, Article 9A of this title as in effect before the effective date of this section determines priority.

(c) **Determination of certain priorities on adjustment date.** On the adjustment date, to the extent the priorities determined by Article 9A of this title as amended by this act modify the priorities established before the effective date of this section, the priorities of claims to Article 12 property and electronic money established before the effective date of this section cease to apply.

NEW SECTION. **Sec. 1109.** SECTION A-306: PRIORITY OF CLAIMS WHEN PRIORITY RULES OF ARTICLE 9A DO NOT APPLY. (a) **Determination of priority.** Subject to subsections (b) and (c) of this section, Article 12 determines the priority of conflicting claims to Article 12 property when the priority rules of Article 9A of this title as amended by this act do not apply.

(b) **Established priorities.** Subject to subsection (c) of this section, when the priority rules of Article 9A of this title as amended by this act do not apply and the priorities of claims to Article 12 property were established before the effective date of this section, law other than Article 12 determines priority.

(c) **Determination of certain priorities on adjustment date.** When the priority rules of Article 9A of this title as amended by this act do not apply, to the extent the priorities determined by this act modify the priorities established before the effective date of this section, the priorities of claims to Article 12 property established before the effective date of this section cease to apply on the adjustment date.

PART XII

NEW SECTION. **Sec. 1201.** Nothing in this act may be construed to support, endorse, create, or implement a national digital currency.

NEW SECTION. **Sec. 1202.** Sections 1001 through 1007 of this act constitute a new Article in Title 62A RCW.

NEW SECTION. **Sec. 1203.** Sections 1101 through 1109 of this act constitute a new Article in Title 62A RCW.

NEW SECTION. **Sec. 1204.** This act takes effect January 1, 2024.

Passed by the Senate April 13, 2023.
Passed by the House April 6, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 267

[Engrossed Substitute Senate Bill 5111]

CONSTRUCTION WORKERS—PAYMENT FOR ACCRUED AND UNUSED SICK LEAVE

AN ACT Relating to requiring payment for accrued and unused sick leave for certain construction workers; amending RCW 49.46.210 and 49.46.180; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 49.46.210 and 2022 c 281 s 6 are each amended to read as follows:

(1) Beginning January 1, 2018, except as provided in RCW 49.46.180, every employer shall provide each of its employees paid sick leave as follows:

(a) An employee shall accrue at least one hour of paid sick leave for every forty hours worked as an employee. An employer may provide paid sick leave in advance of accrual provided that such front-loading meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave.

(b) An employee is authorized to use paid sick leave for the following reasons:

(i) An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;

(ii) To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care; and

(iii) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason.

(c) An employee is authorized to use paid sick leave for absences that qualify for leave under the domestic violence leave act, chapter 49.76 RCW.

(d) An employee is entitled to use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment.

(e) Employers are not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes.

(f) An employer may require employees to give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave.

(g) For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose. If an employer requires verification, verification must be provided to the employer within a reasonable time period during or after the leave. An employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.

(h) An employer may not require, as a condition of an employee taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

(i) For each hour of paid sick leave used, an employee shall be paid the greater of the minimum hourly wage rate established in this chapter or his or her normal hourly compensation. The employer is responsible for providing regular notification to employees about the amount of paid sick leave available to the employee.

(j) ((~~Unused~~)) Except as provided in (l) of this subsection, accrued and unused paid sick leave carries over to the following year, ((~~except that~~)) but an employer is not required to allow an employee to carry over paid sick leave in excess of ((~~forty~~)) 40 hours.

(k) ((~~This section does not require an employer~~)) Except as provided in (l) of this subsection, an employer is not required to provide financial or other reimbursement for accrued and unused paid sick leave to any employee upon the employee's termination, resignation, retirement, or other separation from employment. When there is a separation from employment and the employee is rehired within ((~~twelve~~)) 12 months of separation by the same employer, whether at the same or a different business location of the employer, previously accrued unused paid sick leave shall be reinstated and the previous period of employment shall be counted for purposes of determining the employee's eligibility to use paid sick leave under subsection (1)(d) of this section. For purposes of this subsection (1)(k), "previously accrued and unused paid sick leave" does not include sick leave paid out to a construction worker under (l) of this subsection.

(l) For workers covered under the North American industry classification system industry code 23, except for North American industry classification system code 236100, residential building construction, who have not met the 90th day eligibility under (d) of this subsection at the time of separation, the employer must pay the former worker the balance of their accrued and unused

paid sick leave at the end of the established pay period, pursuant to RCW 49.48.010(2), following the worker's separation.

(2) For purposes of this section, "family member" means any of the following:

(a) A child, including a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(b) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;

(c) A spouse;

(d) A registered domestic partner;

(e) A grandparent;

(f) A grandchild; or

(g) A sibling.

(3) An employer may not adopt or enforce any policy that counts the use of paid sick leave time as an absence that may lead to or result in discipline against the employee.

(4) An employer may not discriminate or retaliate against an employee for his or her exercise of any rights under this chapter including the use of paid sick leave.

(5)(a) The definitions in this subsection apply to this subsection:

(i) "Average hourly compensation" means a driver's compensation during passenger platform time from, or facilitated by, the transportation network company, during the 365 days immediately prior to the day that paid sick time is used, divided by the total hours of passenger platform time worked by the driver on that transportation network company's driver platform during that period. "Average hourly compensation" does not include tips.

(ii) "Driver," "driver platform," "passenger platform time," and "transportation network company" have the meanings provided in RCW 49.46.300.

(iii) "Earned paid sick time" is the time provided by a transportation network company to a driver as calculated under this subsection. For each hour of earned paid sick time used by a driver, the transportation network company shall compensate the driver at a rate equal to the driver's average hourly compensation.

(iv) For purposes of drivers, "family member" means any of the following:

(A) A child, including a biological, adopted, or foster child, stepchild, or a child to whom the driver stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(B) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of a driver or the driver's spouse or registered domestic partner, or a person who stood in loco parentis when the driver was a minor child;

(C) A spouse;

(D) A registered domestic partner;

(E) A grandparent;

(F) A grandchild; or

(G) A sibling.

(b) Beginning January 1, 2023, a transportation network company must provide to each driver operating on its driver platform compensation for earned paid sick time as required by this subsection and subject to the provisions of this subsection. A driver shall accrue one hour of earned paid sick time for every 40 hours of passenger platform time worked.

(c) A driver is entitled to use accrued earned paid sick time upon recording 90 hours of passenger platform time on the transportation network company's driver platform.

(d) For each hour of earned paid sick time used, a driver shall be paid the driver's average hourly compensation.

(e) A transportation network company shall establish an accessible system for drivers to request and use earned paid sick time. The system must be available to drivers via smartphone application and online web portal.

(f) A driver may carry over up to 40 hours of unused earned paid sick time to the next calendar year. If a driver carries over unused earned paid sick time to the following year, accrual of earned paid sick time in the subsequent year must be in addition to the hours accrued in the previous year and carried over.

(g) A driver is entitled to use accrued earned paid sick time if the driver has used the transportation network company's platform as a driver within 90 calendar days preceding the driver's request to use earned paid sick time.

(h) A driver is entitled to use earned paid sick time for the following reasons:

(i) An absence resulting from the driver's mental or physical illness, injury, or health condition; to accommodate the driver's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;

(ii) To allow the driver to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care;

(iii) When the driver's child's school or place of care has been closed by order of a public official for any health-related reason;

(iv) For absences for which an employee would be entitled for leave under RCW 49.76.030; and

(v) During a deactivation or other status that prevents the driver from performing network services on the transportation network company's platform, unless the deactivation or status is due to a verified allegation of sexual assault or physical assault perpetrated by the driver.

(i) If a driver does not record any passenger platform time in a transportation network company's driver platform for 365 or more consecutive days, any unused earned paid sick time accrued up to that point with that transportation network company is no longer valid or recognized.

(j) Drivers may use accrued days of earned paid sick time in increments of a minimum of four or more hours. Drivers are entitled to request four or more hours of earned paid sick time for immediate use, including consecutive days of use. Drivers are not entitled to use more than eight hours of earned paid sick time within a single calendar day.

(k) A transportation network company shall compensate a driver for requested hours or days of earned paid sick time no later than 14 calendar days or the next regularly scheduled date of compensation following the requested hours or days of earned paid sick time.

(l) A transportation network company shall not request or require reasonable verification of a driver's qualifying illness except as would be permitted to be requested of an employee under subsection (1)(g) of this section. If a transportation network company requires verification pursuant to this subsection, the transportation network company must compensate the driver for the requested hours or days of earned paid sick time no later than the driver's next regularly scheduled date of compensation after satisfactory verification is provided.

(m) If a driver accepts an offer of prearranged services for compensation from a transportation network company during the four-hour period or periods for which the driver requested earned paid sick time, a transportation network company may determine that the driver did not use earned paid sick time for an authorized purpose.

(n) A transportation network company shall provide each driver with:

(i) Written notification of the current rate of average hourly compensation while a passenger is in the vehicle during the most recent calendar month for use of earned paid sick time;

(ii) An updated amount of accrued earned paid sick time since the last notification;

(iii) Reduced earned paid sick time since the last notification;

(iv) Any unused earned paid sick time available for use; and

(v) Any amount that the transportation network company may subtract from the driver's compensation for earned paid sick time. The transportation network company shall provide this information to the driver no less than monthly. The transportation network company may choose a reasonable system for providing this notification, including but not limited to: A pay stub; a weekly summary of compensation information; or an online system where drivers can access their own earned paid sick time information. A transportation network company is not required to provide this information to a driver if the driver has not worked any days since the last notification.

(o) A transportation network company may not adopt or enforce any policy that counts the use of earned paid sick time as an absence that may lead to or result in any action that adversely affects the driver's use of the transportation network.

(p) A transportation network company may not take any action against a driver that adversely affects the driver's use of the transportation network due to his or her exercise of any rights under this subsection including the use of earned paid sick time.

(q) The department may adopt rules to implement this subsection.

Sec. 2. RCW 49.46.180 and 2019 c 236 s 4 are each amended to read as follows:

(1) The sick leave provisions of RCW 49.46.200 through 49.46.830 shall not apply to construction workers covered by a collective bargaining agreement, provided:

(a) The union signatory to the collective bargaining agreement is an approved referral union program authorized under RCW 50.20.010 and in compliance with WAC 192-210-110; and

(b) The collective bargaining agreement establishes equivalent sick leave provisions, as provided in subsection (2) of this section; and

(c) The requirements of RCW 49.46.200 through 49.46.830 are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement including an agreement that is open for negotiation provided the sick leave portions were previously ratified by the membership.

(2) Equivalent sick leave provisions provided by a collective bargaining agreement must meet the requirements of RCW 49.46.200 through 49.46.830 and the rules adopted by the department of labor and industries, except the payment of leave at the normal hourly compensation may occur before usage and the payment of accrued and unused sick leave may be made in accordance with RCW 49.46.210.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2024.

Passed by the Senate April 14, 2023.
Passed by the House April 5, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 268

[Substitute Senate Bill 5114]

SEX TRAFFICKING—HEALING, SUPPORT, AND TRANSITION SERVICES

AN ACT Relating to supporting adults with lived experience of sex trafficking; adding a new section to chapter 43.280 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) As the first state in the nation to pass a human trafficking law, Washington has consistently been at the forefront of work to address and prevent human trafficking. The legislature is continuing this leadership by prioritizing the delivery of services for adults with lived experience of sex trafficking by developing a long-term, coordinated, and supportive network of services.

(2) The legislature finds that numerous sex trafficking victims are moved throughout the state of Washington by their traffickers, established by the following:

(a) In 2020, the national human trafficking hotline ranked Washington 11th in the nation for reported cases of human trafficking.

(b) In 2020, 819 survivors of sex trafficking were served by human service agencies in Washington.

(c) In 2020, the highest numbers of likely sex trafficking victims were identified or served in King, Pierce, Benton, Franklin, Clark, Snohomish, Spokane, and Thurston counties.

(3) The legislature finds that the trauma of sex trafficking often starts in childhood and continues into adulthood, established by the following:

(a) A local study of sex trafficking victims in King county estimated 500-700 youth experiencing exploitation in King county alone.

(b) According to data from the national hotline, among likely sex trafficking victims in Washington who reported their age of entry into exploitation, 89 percent reported that they were children when first exploited.

(4) The legislature finds that vulnerable black, brown, indigenous, lesbian, gay, bisexual, transgender, queer, questioning, two-spirit, intersex, asexual, and other identities that fall outside of cisgender and heterosexual paradigms are disproportionately trafficked for sex, including that:

(a) While King county's population is seven percent black, 45 percent of children involved in sex trafficking cases are African American;

(b) Black females currently represent about 13 percent of the United States population but represent 40 percent of suspected human trafficking victims;

(c) While King county's population was .9 percent indigenous in 2020, 10 percent of people receiving services for trafficking and sexual exploitation identified as Native American;

(d) One case worker in Pierce county reported that over the past two years, 78 percent of the missing and murdered indigenous women and persons cases she worked on involved missing women who had indicators of human trafficking.

(5) In order to reduce the trauma, violence, and disproportionate impact of sex trafficking, the legislature intends to create a network of healing, support, and transition services for adults with lived experience of sex trafficking tailored to the self-determined needs of each individual.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.280 RCW to read as follows:

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

(a) "Adult with lived experience of sex trafficking" means any person age 18 or older who was a person who has been forced or coerced to perform a commercial sex act including, but not limited to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070, 9.68A.101, and the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a commercial sex act when they were less than 18 years of age including but not limited to the offenses defined in chapter 9.68A RCW.

(b) "Healing, support, and transition service provider" means an entity or person that provides healing and transition services that meet the self-determined needs of adults with lived experience of sex trafficking ages 18 and older.

(c) "Healing, support, and transition services" means safe and trauma-informed services that are tailored to the self-determined needs of each individual. Healing, support, and transition services include:

(i) Advocacy;

(ii) Safety planning;

(iii) Housing and related support including support related to relocation;

(iv) Substance use disorder treatment;

(v) Medical and behavioral health services and other trauma-informed services;

(vi) Legal advocacy, which may include immigration system support, vacatur support, or other civil legal assistance;

(vii) Translation and interpretation;

(viii) Education;

(ix) Job training;

(x) Employment support;

(xi) Outreach; and

(xii) Emergency financial assistance.

(d) "Office" means the office of crime victims advocacy established under RCW 43.280.080.

(2) Subject to the availability of amounts appropriated for this specific purpose, the office shall administer funding for healing, support, and transition services for adults with lived experience of sex trafficking. At least one of the healing, support, and transition service providers must be located east of the crest of the Cascade mountains, and at least one of the healing, support, and transition service providers must be located west of the crest of the Cascade mountains. Law enforcement, service providers, the department of children, youth, and families, and other state or local organizations may refer adults to healing, support, and transition services or adults may self-refer.

(3) The healing, support, and transition service providers receiving funding under this section must:

(a) Offer healing, support, and transition services designed to enhance safety and reduce and prevent further trauma;

(b) Provide ongoing services for adults with lived experience of sex trafficking;

(c) Provide culturally, developmentally, and linguistically informed and responsive services with priority given to underserved populations in the region, which are most impacted by sex trafficking. Depending on the region, underserved populations may include people who are African American, Asian, Native Hawaiian, Pacific Islander, American Indian, Alaska Native, lesbian, gay, bisexual, transgender, queer, questioning, two-spirit, intersex, asexual, other identities that fall outside of cisgender and heterosexual paradigms +, or Latine;

(d) Incorporate into the program leadership from communities with unique risk factors for sex trafficking, sex trafficking survivor leadership, survivor-informed services, and survivor mentorship;

(e) Meet core needs, provide long-term services, and offer skill training to increase the range of options available to participants, including transition services;

(f) Not require proof of identification in order to access services or that an individual self-identify as a sex trafficking victim in order to initially access services;

(g) Regularly participate in coordination meetings for healing, support, and transition service providers;

(h) Provide training and information to law enforcement officers, prosecutors, service providers and other first responders, and communities with culturally specific risk factors for sex trafficking on how to engage and refer individuals to these services; and

(i) Report data on outcomes of the healing, support, and transition services to the office, collected on a quarterly basis from clients who may be compensated for survey participation.

(4) The office shall:

(a) Prioritize funding for healing, support, and transition service providers located in underserved areas of the state that have a need for healing, support, and transition services;

(b) Provide additional funding to one statewide organization led by adults with lived experience of sex trafficking for the purpose of providing coordinating support and convening statewide coordination meetings, no less than quarterly, for healing, support, and transition service providers and related service providers following a request for proposals;

(c) Issue a request for proposals for healing, support, and transition service providers by September 1, 2023;

(d) Include the following stakeholders in the development of the request for proposals and prioritization of funding:

(i) Diverse community representatives who have lived experience of transitioning out of sex trafficking; and

(ii) The secretary of the department of children, youth, and families, or their designee;

(e) Collect the following data:

(i) Nonidentifiable demographic data of clients served, including whether clients are current or former foster youth;

(ii) Data on trafficking and trauma verification, including the number of clients that have been verified as adults with lived experience of sex trafficking based on information self-disclosed by the client or a referring entity, the type of trafficking, and prior trauma history;

(iii) Data on the services provided to clients; and

(iv) Data on outcomes of the healing, support, and transition services, collected on a quarterly basis from clients;

(f) By December 1, 2024, submit an initial report to the relevant committees of the legislature that includes the following information by service providers:

(i) The number of clients served;

(ii) Nonidentifiable demographic data of the clients served, including whether clients are current or former foster youth; and

(iii) Data on the services provided to clients; and

(g) Beginning December 1, 2025, submit an annual report to:

(i) The relevant committees of the legislature that includes the following information by service provider:

(A) Nonidentifiable demographic data of clients served, including whether clients are current or former foster youth;

(B) Data on trafficking and trauma verification, including the number of clients that have been verified as adults with lived experience of sex trafficking based on information self-disclosed by the client or a referring entity, the type of trafficking, and prior trauma history;

(C) Data on the services provided to clients;

(D) Data on outcomes of the healing, support, and transition services, collected on a quarterly basis from clients; and

(E) Any recommendations for modification or expansion of the healing, support, and transition services; and

(ii) The department of children, youth, and families that includes data on current and former foster youth provided healing, support, and transition

services. The department of children, youth, and families shall use this data for coordination with its liaisons for commercially sexually exploited children.

Passed by the Senate March 1, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 269

[Substitute Senate Bill 5156]
FARM INTERNSHIP PROJECT—EXPANSION

AN ACT Relating to expanding the farm internship program; amending RCW 49.12.471, 49.46.010, 50.04.152, and 51.16.243; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that encouraging participation in agriculture is valuable. The farm internship program allows students to experience farming practices and get hands-on experience with farming activities. The internship program has existed since 2014 and was piloted in a few select counties. The legislature finds that this program is valuable, should be extended to all counties, and should continue without an expiration date.

Sec. 2. RCW 49.12.471 and 2020 c 212 s 1 are each amended to read as follows:

(1) The director shall establish a farm internship ((~~pilot~~)) project for the employment of farm interns on small farms under special certificates at wages, if any, as authorized by the department and subject to such limitations as to time, number, proportion, and length of service as provided in this section and as prescribed by the department. ((~~The pilot project consists of the following counties: San Juan, Skagit, King, Whatcom, Kitsap, Pierce, Jefferson, Spokane, Yakima, Chelan, Grant, Island, Snohomish, Kittitas, Lincoln, Thurston, Walla Walla, Clark, Cowlitz, and Lewis.~~))

(2)(a) A small farm may employ no more than three interns at one time under this section.

(b) For any small farm located in a county that became eligible to participate in the farm intern project on the effective date of this act, at least one of the interns employed by the farm must be an individual who, in addition to meeting the farm's qualifications applicable to all intern applicants, also has direct experience working as a migrant farmworker or whose parent or grandparent has direct experience working as a migrant farmworker. If a farm is employing only one intern and the farm does not receive any applications from individuals who meet the criteria set forth in this subsection, the requirement of this subsection does not apply. If a farm is employing more than one intern, the farm must employ at least one intern who meets the criteria set forth in this subsection.

(3) A small farm must apply for a special certificate on a form made available by the director. The application must set forth: The name of the farm and a description of the farm seeking the certificate; the type of work to be performed by a farm intern; a description of the internship program; the period of time for which the certificate is sought and the duration of an internship; the

number of farm interns for which a special certificate is sought; the wages, if any, that will be paid to the farm intern; any room and board, stipends, and other remuneration the farm will provide to a farm intern; and the total number of workers employed by the farm.

(4) Upon receipt of an application, the department shall review the application and issue a special certificate to the requesting farm within fifteen days if the department finds that:

(a) The farm qualifies as a small farm;

(b) There have been no serious violations of chapter 49.46 RCW or Title 51 RCW that provide reasonable grounds to believe that the terms of an internship agreement may not be complied with;

(c) The issuance of a certificate will not create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character in the industry or occupation at which the intern is to be employed;

(d) A farm intern will not displace an experienced worker; ((~~and~~))

(e) If subsection (2)(b) of this section applies, the farm has included in the application either: (i) An attestation from at least one farm intern stating that the farm intern is an individual who has direct experience working as a migrant farmworker or whose parent or grandparent has direct experience working as a migrant farmworker; or (ii) an attestation that the farm is employing only one intern and the farm did not receive any applications from individuals who meet the criteria set forth in subsection (2)(b) of this section; and

(f) The farm demonstrates that the interns will perform work for the farm under an internship program that: (i) Provides a curriculum of learning modules and supervised participation in farm work activities designed to teach farm interns about farming practices and farm enterprises; (ii) is based on the bona fide curriculum of an educational or vocational institution; (iii) encourages the interns to participate in career and technical education or other educational content with courses in agriculture or related programs of study at a community or technical college; and ((~~(iii)~~)) (iv) is reasonably designed to provide the intern with vocational knowledge and skills about farming practices and enterprises. In assessing an internship program, the department may consult with relevant college and university departments and extension programs and state and local government agencies involved in the regulation or development of agriculture.

(5) A special certificate issued under this section must specify the terms and conditions under which it is issued, including: The name of the farm; the duration of the special certificate allowing the employment of farm interns and the duration of an internship; the total number of interns authorized under the special certificate; the authorized wage rate, if any; and any room and board, stipends, and other remuneration the farm will provide to the farm intern. A farm intern may be paid at wages specified in the certificate only during the effective period of the certificate and for the duration of the internship.

(6) If the department denies an application for a special certificate, notice of denial must be mailed to the farm. The farm listed on the application may, within fifteen days after notice of such action has been mailed, file with the director a petition for review of the denial, setting forth grounds for seeking such a review. If reasonable grounds exist, the director or the director's authorized

representative may grant such a review and, to the extent deemed appropriate, afford all interested persons an opportunity to be heard on such review.

(7) Before employing a farm intern, a farm must submit a statement on a form made available by the director stating that the farm understands: The requirements of the industrial welfare act, this chapter, that apply to farm interns; that the farm must pay workers' compensation premiums in the assigned intern risk class and must pay workers' compensation premiums for nonintern work hours in the applicable risk class; and that if the farm does not comply with subsection (8) of this section, the director may revoke the special certificate.

(8) The director may revoke a special certificate issued under this section if a farm fails to: Comply with the requirements of the industrial welfare act, this chapter, that apply to farm interns; pay workers' compensation premiums in the assigned intern risk class; or pay workers' compensation premiums in the applicable risk class for nonintern work hours.

(9) Before the start of a farm internship, the farm and the intern must sign a written agreement and send a copy of the agreement to the department. The written agreement must, at a minimum:

(a) Describe the internship program offered by the farm, including the skills and objectives the program is designed to teach and the manner in which those skills and objectives will be taught;

(b) Explicitly state that the intern is not entitled to unemployment benefits or minimum wages for work and activities conducted pursuant to the internship program for the duration of the internship;

(c) Describe the responsibilities, expectations, and obligations of the intern and the farm, including the anticipated number of hours of farm activities to be performed by and the anticipated number of hours of curriculum instruction provided to the intern per week;

(d) Describe the activities of the farm and the type of work to be performed by the farm intern; and

(e) ((~~Describes [Describe]~~)) Describe any wages, room and board, stipends, and other remuneration the farm will provide to the farm intern.

(10) The department must limit the administrative costs of implementing the internship ((~~pilot~~)) program by relying on farm organizations and other stakeholders to perform outreach and inform the farm community of the program and by limiting employee travel to the investigation of allegations of noncompliance with program requirements.

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

(a) "Farm intern" means an individual who provides services to a small farm under a written agreement and primarily as a means of learning about farming practices and farm enterprises.

(b) "Farm internship program" means an internship program described under subsection (4)(e) of this section.

(c) "Small farm" means a farm:

(i) Organized as a sole proprietorship, partnership, or corporation;

(ii) That reports on the applicant's schedule F of form 1040 or other applicable form filed with the United States internal revenue service annual sales less than ((~~two hundred fifty thousand dollars~~)) $265,000; and

(iii) Where all the owners or partners of the farm provide regular labor to and participate in the management of the farm, and own or lease the productive assets of the farm.

(12) The department shall monitor and evaluate the farm internships authorized by this section and report to the appropriate committees of the legislature by December 31, 2024. The report must include, but not be limited to: The number of small farms that applied for and received special certificates; the number of interns employed as farm interns; the nature of the educational activities provided to the farm interns; the wages and other remuneration paid to farm interns; the number of and type of workers' compensation claims for farm interns; the employment of farm interns following farm internships; and other matters relevant to assessing farm internships authorized in this section.

((~~(13) This section expires December 31, 2025.~~))

Sec. 3. RCW 49.46.010 and 2020 c 212 s 3 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Employ" includes to permit to work;

(3) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) ((~~Until December 31, 2025, any~~)) Any farm intern providing his or her services to a small farm which has a special certificate issued under RCW 49.12.471;

(p) An individual who is at least ((~~sixteen~~)) 16 years old but under twenty-one years old, in his or her capacity as a player for a junior ice hockey team that is a member of a regional, national, or international league and that contracts with an arena owned, operated, or managed by a public facilities district created under chapter 36.100 RCW;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(6) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry;

(7) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks

convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director.

Sec. 4. RCW 50.04.152 and 2020 c 212 s 2 are each amended to read as follows:

(1) Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" does not include service performed in agricultural labor by a farm intern providing his or her services under a farm internship program as established in RCW 49.12.471.

(2) For purposes of this section, "agricultural labor" means:

(a) Services performed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;

(b) Services performed in packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this subsection (2)(b) are not applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or raising and harvesting of mushrooms; or

(c) Direct local sales of any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption.

((~~(3) This section expires December 31, 2025.~~))

Sec. 5. RCW 51.16.243 and 2020 c 212 s 4 are each amended to read as follows:

(1) The department shall adopt rules to provide special workers' compensation risk class or classes for farm interns providing agricultural labor pursuant to a farm internship program under RCW 49.12.471. The rules must include any requirements for obtaining a special risk class that must be met by small farms.

((~~(2) This section expires December 31, 2025.~~))

NEW SECTION. **Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 14, 2023.

Passed by the House April 12, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 270

[Substitute Senate Bill 5189]

BEHAVIORAL HEALTH SUPPORT SPECIALISTS

AN ACT Relating to establishing behavioral health support specialists; amending RCW 18.130.040 and 18.130.040; adding a new section to chapter 48.43 RCW; adding a new chapter to Title 18 RCW; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that a behavioral health support specialist is a new member of the workforce in Washington state trained in the competencies developed by the University of Washington behavioral health support specialist clinical training program. The behavioral health support specialist clinical training program is characterized by brief, evidence-based interventions delivered to the intensity and expected duration of the behavioral health problem. The approach features routine outcome monitoring and regular, outcome-focused supervision. Use of behavioral health support specialists in Washington is expected to improve access to behavioral health services and ease workforce shortages while helping behavioral health professionals work at the top of their scope of practice.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means a person 18 years of age or older.

(2) "Applicant" means a person who completes the required application, pays the required fee, is at least 18 years of age, and meets any background check requirements and uniform disciplinary act requirements.

(3) "Behavioral health" is a term that encompasses mental health, substance use, and co-occurring disorders.

(4) "Behavioral health support specialist" means a person certified to deliver brief, evidence-based interventions with a scope of practice that includes behavioral health under the supervision of a Washington state credentialed provider who has the ability to assess, diagnose, and treat identifiable mental and behavioral health conditions as part of their scope of practice. A behavioral health support specialist does not have within their scope of practice the ability to make diagnoses but does track and monitor treatment response and outcomes using measurement-based care.

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

(6) "Registered apprenticeship" means an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

(7) "Secretary" means the secretary of health or the secretary's designee.

NEW SECTION. **Sec. 3.** The department shall collaborate with the University of Washington department of psychiatry and behavioral sciences and consult with other stakeholders to develop rules to implement this chapter by January 1, 2025, which shall be consistent with the University of Washington behavioral health support specialist clinical training program guidelines, and shall include appropriate standards for approval of educational programs for behavioral health support specialists, which shall include a practicum component and may be integrated into a bachelor's degree program or structured as a postbaccalaureate continuing education program or registered

apprenticeship in combination with an approved bachelor's degree or postbaccalaureate certificate.

NEW SECTION. **Sec. 4.** A person may not represent themself as a behavioral health support specialist without being certified by the department.

NEW SECTION. **Sec. 5.** Nothing in this chapter shall be construed to prohibit or restrict delivery of behavioral health interventions by an individual otherwise regulated under this title and performing services within their authorized scope of practice.

NEW SECTION. **Sec. 6.** In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter. Any rules adopted shall be in consultation with the University of Washington;

(2) Establish all certification, examination, and renewal fees in accordance with RCW 43.70.250;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Issue certifications to applicants who have met the education, which may include registered apprenticeships, practicum, and examination requirements for certification and to deny a certification to applicants who do not meet the requirements;

(5) Develop, administer, and supervise the grading and taking of an examination for applicants for certification;

(6) Adopt rules requiring completion of 20 hours of continuing education every two years after initial certification for certification renewal;

(7) Maintain the official record of all applicants and certification holders; and

(8) Establish by rule the procedures for an appeal of an examination failure.

NEW SECTION. **Sec. 7.** The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certification, and the discipline of persons certified under this chapter. The secretary shall be the disciplinary authority under this chapter.

NEW SECTION. **Sec. 8.** The secretary shall issue a certification to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements:

(1) Graduation from a bachelor's degree program;

(2) Successful completion of a behavioral health support specialist program that is approved to meet standards consistent with the University of Washington behavioral health support specialist clinical training program guidelines, including a supervised clinical practicum with demonstrated clinical skills in core competencies; and

(3) Successful completion of an approved jurisprudential examination.

NEW SECTION. **Sec. 9.** (1) The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designee shall examine each applicant, by means determined to be most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted using fair and wholly impartial methods.

(4) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the certification requirements.

NEW SECTION. **Sec. 10.** Applications for certification shall be submitted on forms provided by the secretary. The secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee shall accompany the application.

NEW SECTION. **Sec. 11.** The health care authority shall take any steps which are necessary and proper to ensure that the services of behavioral health support specialists are covered under the state medicaid program by January 1, 2025.

NEW SECTION. **Sec. 12.** A new section is added to chapter 48.43 RCW to read as follows:

By July 1, 2025, every carrier shall provide access to services provided by behavioral health support specialists in a manner sufficient to meet the network access standards set forth in rules established by the office of the insurance commissioner.

Sec. 13. RCW 18.130.040 and 2021 c 179 s 7 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ((~~and~~))

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Behavioral health support specialists certified under chapter 18.--- RCW (the new chapter created in section 15 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 14. RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW;

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; ((~~and~~))

(xxvii) Birth doulas certified under chapter 18.47 RCW; and

(xxviii) Behavioral health support specialists certified under chapter 18.--- RCW (the new chapter created in section 15 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. **Sec. 15.** Sections 1 through 11 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 16.** Section 13 of this act expires October 1, 2023.

NEW SECTION. **Sec. 17.** Section 14 of this act takes effect October 1, 2023.

Passed by the Senate April 14, 2023.
Passed by the House April 6, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 271

[Engrossed Second Substitute Senate Bill 5243]

HIGH SCHOOL AND BEYOND PLANNING—VARIOUS PROVISIONS

AN ACT Relating to high school and beyond planning; amending RCW 28A.230.090, 28A.230.215, 28A.230.091, 28A.230.310, 28A.230.320, 28A.300.900, and 28A.655.250; adding a new section to chapter 28A.230 RCW; creating new sections; repealing RCW 28A.655.270; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the high school and beyond plan is both a graduation requirement and a critical component in our education system. However, the practices and technologies that school districts employ for facilitating high school and beyond plans vary significantly. These variances can create inequities for students and families, and do not reflect the legislature's vision for the role of the high school and beyond plan in promoting student success in secondary and postsecondary endeavors.

(2) A universal online high school and beyond plan platform that can be readily accessed by students, parents, teachers, and others who support academic progress will alleviate equity issues and create new opportunities for students to

develop and curate plans that align with their needs and interests. With the assistance of a flexible, portable, and expandable platform, all students with high school and beyond plans will be able to easily personalize and revise their plans, explore education options of relevance and interest, and receive supports that will help them make informed choices about their education and career objectives.

(3) The legislature, therefore, intends to revise and strengthen high school and beyond plan requirements and to direct the office of the superintendent of public instruction to facilitate the transition to a universal online high school and beyond plan platform to guide students' secondary education experiences and ensure preparation for their postsecondary goals.

Sec. 2. RCW 28A.230.090 and 2021 c 307 s 2 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW 28A.230.122 and 28A.655.250 and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) Except as provided otherwise in this subsection, the certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation. The requirement to earn a certificate of academic achievement to qualify for graduation from a public high school concludes with the graduating class of 2019. The obligation of qualifying students to earn a certificate of individual achievement as a prerequisite for graduation from a public high school concludes with the graduating class of 2021.

(c)((~~(i)~~)) Each student must have a high school and beyond plan to guide the student's high school experience and inform course taking that is aligned with the student's goals for education or training and career after high school((~~.~~

~~(ii)(A) A high school and beyond plan must be initiated for each student during the seventh or eighth grade. In preparation for initiating that plan, each student must first be administered a career interest and skills inventory.~~

~~(B) For students with an individualized education program, the high school and beyond plan must be developed in alignment with their individualized education program. The high school and beyond plan must be developed in a similar manner and with similar school personnel as for all other students.~~

~~(iii)(A) The high school and beyond plan must be updated to reflect high school assessment results in RCW 28A.655.070(3)(b) and to review transcripts, assess progress toward identified goals, and revised as necessary for changing interests, goals, and needs. The plan must identify available interventions and academic support, courses, or both, that are designed for students who are not on track to graduate, to enable them to fulfill high school graduation requirements.~~

~~Each student's high school and beyond plan must be updated to inform junior year course taking.~~

~~(B) For students with an individualized education program, the high school and beyond plan must be updated in alignment with their school to postschool transition plan. The high school and beyond plan must be updated in a similar manner and with similar school personnel as for all other students.~~

~~(iv) School districts are encouraged to involve parents and guardians in the process of developing and updating the high school and beyond plan, and the plan must be provided to the students' parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district. Nothing in this subsection (1)(c)(iv) prevents districts from providing high school and beyond plans to parents and guardians in additional languages that are not required by this subsection.~~

~~(v) All high school and beyond plans must, at a minimum, include the following elements:~~

~~(A) Identification of career goals, aided by a skills and interest assessment;~~

~~(B) Identification of educational goals;~~

~~(C) Identification of dual credit programs and the opportunities they create for students, including eligibility for automatic enrollment in advanced classes under RCW 28A.320.195, career and technical education programs, running start programs, AP courses, international baccalaureate programs, and college in the high school programs;~~

~~(D) Information about the college bound scholarship program established in chapter 28B.118 RCW;~~

~~(E) A four-year plan for course taking that:~~

~~(I) Includes information about options for satisfying state and local graduation requirements;~~

~~(II) Satisfies state and local graduation requirements;~~

~~(III) Aligns with the student's secondary and postsecondary goals, which can include education, training, and career;~~

~~(IV) Identifies course sequences to inform academic acceleration, as described in RCW 28A.320.195 that include dual credit courses or programs and are aligned with the student's goals; and~~

~~(V) Includes information about the college bound scholarship program, the Washington college grant, and other scholarship opportunities;~~

~~(F) Evidence that the student has received the following information on federal and state financial aid programs that help pay for the costs of a postsecondary program:~~

~~(I) Information about the documentation necessary for completing the applications; application timeliness and submission deadlines; the importance of submitting applications early; information specific to students who are or have been in foster care; information specific to students who are, or are at risk of being, homeless; information specific to students whose family member or guardians will be required to provide financial and tax information necessary to complete applications; and~~

~~(II) Opportunities to participate in sessions that assist students and, when necessary, their family members or guardians, fill out financial aid applications; and~~

~~(G) By the end of the twelfth grade, a current resume or activity log that provides a written compilation of the student's education, any work experience, and any community service and how the school district has recognized the community service pursuant to RCW 28A.320.193.~~

~~(d)~~))) as provided for under section 3 of this act and RCW 28A.230.215. Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level. Effective with the graduating class of 2015, the state board of education may not establish a requirement for students to complete a culminating project for graduation. A district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(((~~(e)~~))) (d)(i) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, to take effect beginning with the graduating class of 2019 or as otherwise provided in this subsection (1)(((~~(e)~~))) (d). The rules must include authorization for a school district to waive up to two credits for individual students based on a student's circumstances, provided that none of the waived credits are identified as mandatory core credits by the state board of education. School districts must adhere to written policies authorizing the waivers that must be adopted by each board of directors of a school district that grants diplomas. The rules must also provide that the content of the third credit of mathematics and the content of the third credit of science may be chosen by the student based on the student's interests and high school and beyond plan with agreement of the student's parent or guardian or agreement of the school counselor or principal, or as provided in RCW 28A.230.300(4).

(ii) School districts may apply to the state board of education for a waiver to implement the career and college ready graduation requirement proposal beginning with the graduating class of 2020 or 2021 instead of the graduating class of 2019. In the application, a school district must describe why the waiver is being requested, the specific impediments preventing timely implementation, and efforts that will be taken to achieve implementation with the graduating class proposed under the waiver. The state board of education shall grant a waiver under this subsection (1)(((~~(e)~~))) (d) to an applying school district at the next subsequent meeting of the board after receiving an application.

(((~~(iii) A school district must update the high school and beyond plans for each student who has not earned a score of level 3 or level 4 on the middle school mathematics assessment identified in RCW 28A.655.070 by ninth grade, to ensure that the student takes a mathematics course in both ninth and tenth grades. This course may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.~~))

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education

programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to ((~~earn a certificate of academic achievement,~~)) complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) Unless requested otherwise by the student and the student's family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) This section establishes the school district, content, and other substantive requirements for the high school and beyond plan required by RCW 28A.230.090.

(2)(a) Beginning by the seventh grade, each student must be administered a career interest and skills inventory which is intended to be used to inform eighth grade course taking and development of an initial high school and beyond plan. No later than eighth grade, each student must have begun development of a high school and beyond plan that includes a proposed plan for first-year high school

courses aligned with graduation requirements and secondary and postsecondary goals.

(b) For each student who has not earned a score of level 3 or 4 on the middle school mathematics assessment identified in RCW 28A.655.070 by ninth grade, the high school and beyond plan must be updated to ensure that the student takes a mathematics course in both ninth and 10th grades. These courses may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.

(3) With staff support, students must update their high school and beyond plan annually, at a minimum, to review academic progress and inform future course taking.

(a) The high school and beyond plan must be updated in 10th grade to reflect high school assessment results in RCW 28A.655.061, ensure student access to advanced course options per the district's academic acceleration policy in RCW 28A.320.195, assess progress toward identified goals, and revised as necessary for changing interests, goals, and needs.

(b) Each school district shall provide students who have not met the standard on state assessments or who are behind in completion of credits or graduation pathway options with the opportunity to access interventions and academic supports, courses, or both, designed to enable students to meet all high school graduation requirements. The parents or legal guardians shall be notified about these opportunities as included in the student's high school and beyond plan, preferably through a student-led conference, including the parents or legal guardians, and at least annually until the student is on track to graduate.

(c) For students with an individualized education program, the high school and beyond plan must be developed and updated in alignment with their school to postschool transition plan. The high school and beyond plan must be developed and updated in a similar manner and with similar school personnel as for all other students.

(4) School districts shall involve parents and legal guardians to the greatest extent feasible in the process of developing and updating the high school and beyond plan.

(a) The plan must be provided to the student and the students' parents or legal guardians in a language the student and parents or legal guardians understand and in accordance with the school district's language access policy and procedures as required under chapter 28A.183 RCW, which may require language assistance for students and parents or legal guardians with limited English proficiency.

(b) School districts must annually provide students in grades eight through 12 and their parents or legal guardians with comprehensive information about the graduation pathway options offered by the district and are strongly encouraged to begin providing this information beginning in sixth grade. School districts must provide this information in a manner that conforms with the school district's language access policy and procedures as required under chapter 28A.183 RCW.

(5) School districts are strongly encouraged to partner with student serving, community-based organizations that support career and college exploration and preparation for postsecondary and career pathways. Partnerships may include high school and beyond plan coordination and planning, data sharing

agreements, and safe and secure access to individual student's high school and beyond plans.

(6) All high school and beyond plans must, at a minimum, include the following elements:

(a) Identification of career goals and interests, aided by a skills and interest assessment;

(b) Identification of secondary and postsecondary education and training goals;

(c) An academic plan for course taking that:

(i) Informs students about course options for satisfying state and local graduation requirements;

(ii) Satisfies state and local graduation requirements;

(iii) Aligns with the student's secondary and postsecondary goals, which can include education, training, and career preparation;

(iv) Identifies available advanced course sequences per the school district's academic acceleration policy, as described in RCW 28A.320.195, that include dual credit courses or other programs and are aligned with the student's postsecondary goals;

(v) Informs students about the potential impacts of their course selections on postsecondary opportunities;

(vi) Identifies available career and technical education equivalency courses that can satisfy core subject area graduation requirements under RCW 28A.230.097;

(vii) If applicable, identifies career and technical education and work-based learning opportunities that can lead to technical college certifications and apprenticeships; and

(viii) If applicable, identifies opportunities for credit recovery and acceleration, including partial and mastery-based credit accrual to eliminate barriers for on-time grade level progression and graduation per RCW 28A.320.192;

(d) Evidence that the student has received the following information on federal and state financial aid programs that help pay for the costs of a postsecondary program:

(i) The college bound scholarship program established in chapter 28B.118 RCW, the Washington college grant created in RCW 28B.92.200, and other scholarship opportunities;

(ii) The documentation necessary for completing state and federal financial aid applications; application timeliness and submission deadlines; and the importance of submitting applications early;

(iii) Information specific to students who are or have been the subject of a dependency proceeding pursuant to chapter 13.34 RCW, who are or are at risk of being homeless, and whose family member or legal guardian will be required to provide financial and tax information necessary to complete applications;

(iv) Opportunities to participate in advising days and seminars that assist students and, when necessary, their parents or legal guardians, with filling out financial aid applications in accordance with RCW 28A.300.815; and

(v) A sample financial aid letter and a link to the financial aid calculator created in RCW 28B.77.280; and

(e) By the end of the 12th grade, a current resume or activity log that provides a written compilation of the student's education, any work experience, extracurricular activities, and any community service including how the school district has recognized the community service pursuant to RCW 28A.320.193.

(7) In accordance with RCW 28A.230.090(1)(c) any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level, and a school district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(8) The state board of education shall adopt rules to implement this section.

Sec. 4. RCW 28A.230.215 and 2020 c 307 s 7 are each amended to read as follows:

(1) The legislature finds that fully realizing the potential of high school and beyond plans as meaningful tools for articulating and revising pathways for graduation will require additional school counselors and family coordinators. The legislature further finds that the development and implementation of an online electronic platform for high school and beyond plans will be an appropriate and supportive action that will assist students, parents and guardians, educators, ((~~and~~)) school counselors, and other staff who support students' career and college preparation as the legislature explores options for funding additional school counselors.

(2) ((~~Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall facilitate the creation of a list of available electronic platforms for the high school and beyond plan. Platforms eligible to be included on the list must meet the following requirements:~~

~~(a) Enable students to create, personalize, and revise their high school and beyond plan as required by RCW 28A.230.090;~~

~~(b) Grant parents or guardians, educators, and counselors appropriate access to students' high school and beyond plans;~~

~~(c) Employ a sufficiently flexible technology that allows for subsequent modifications necessitated by statutory changes, administrative changes, or both, as well as enhancements to improve the features and functionality of the platform;~~

~~(d) Include a sample financial aid letter and a link to the financial aid calculator created in RCW 28B.77.280, at such a time as those materials are finalized;~~

~~(e) Comply with state and federal requirements for student privacy;~~

~~(f) Allow for the portability between platforms so that students moving between school districts are able to easily transfer their high school and beyond plans; and~~

~~(g) To the extent possible, include platforms in use by school districts during the 2018-19 school year.~~

~~(3)~~)) Beginning in the 2020-21 school year, each school district must ensure that an electronic high school and beyond plan platform is available to all students who are required to have a high school and beyond plan.

(((~~(4)~~))) (3) The office of the superintendent of public instruction shall facilitate the transition to a universal online high school and beyond plan platform that will ensure consistent and equitable access to the needed

information and support to guide students' educational experience and ensure preparation for their postsecondary plans.

(a) By January 1, 2024, the office of the superintendent of public instruction must develop a preliminary list of existing vendors who can provide or build a platform that meets the criteria outlined in subsection (4) of this section and that supports the high school and beyond plan elements identified in section 3 of this act and has the capabilities to support the new elements identified in section 5 of this act. The office of the superintendent of public instruction must submit the list of existing vendors and estimated costs associated with statewide implementation of the universal platform to the governor and the education policy and fiscal committees of the legislature.

(b) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must select the vendor that will be responsible for developing the universal platform by June 1, 2024.

(c) By October 1, 2024, the office of the superintendent of public instruction must develop an implementation plan including both an estimated timeline and updated cost estimates, including the technical assistance, technology updates, ongoing maintenance requirements, and adjustments to the technology funding formula, and statewide professional development that may be needed, for completing full statewide implementation of the universal platform in all school districts. In the implementation plan, the office of the superintendent of public instruction may include a cost alternative for educational service districts to host the universal platform for school districts of the second class when such a district does not have sufficient technology resources to implement and maintain the universal platform.

(4)(a) In addition to the requirements outlined in section 3 of this act, the universal platform must have the capability to be routinely updated and modified in order to include the following elements and capabilities to ensure equity in high school and beyond plans implementation and engagement across the state that:

(i) Enable students to create, personalize, and revise their high school and beyond plan;

(ii) Comply with all necessary state and federal requirements for student privacy and allow for students to opt in or opt out of portions of the universal platform related to third-party information sharing;

(iii) Use technology that can quickly be adapted to include future statutory changes, administrative changes, or both, as well as integrate enhancements to improve the features and functionality;

(iv) Facilitate the automatic import of academic course, credit, and grade data at a regular interval from the most commonly used district student information system platforms and manual import from less commonly used systems so that students' progress towards graduation in the high school beyond plan is accurately reflected at any given time;

(v) Allow for translation into the most common non-English languages across the state in accordance with the model language access policy and procedures as required under chapter 28A.183 RCW;

(vi) Include multiple and varied in-platform assessments with viewable results that can inform career and postsecondary goals including, but not limited to, personality, learning styles, interests, aptitudes, and skills assessments;

(vii) Include a catalog containing meaningful, high quality career exploration opportunities and resources beyond the traditional college, career, and aptitude assessments that are submitted by approved entities (community organizations, institutions of higher education that are authorized to participate in state financial aid programs under chapter 28B.92 RCW, and employers) and vetted by state-selected approvers that allow students to register for or apply to participate in the opportunities (programs, classes, internships, preapprenticeships, online courses, etc.) or access the resources. The universal platform should use completion data from these opportunities to make recommendations to students to include in their high school beyond plans;

(viii) A dedicated space in which to build a direct connection to potential employers, including industry associations, trade associations, labor unions, service branches of the military, nonprofit organizations, and other state and local community organizations so students can learn from experts in different occupational fields about career opportunities and any necessary education and training requirements;

(ix) A secure space for staff, parents or guardians, and approved community partners who support students' academic progress and career and college preparation, to make notes that can inform staff efforts to connect students to academic and career connected learning opportunities and develop support and credit recovery plans for students, as needed;

(x) Accessibility options for students needing accommodations including, but not limited to, visual aids and voice dictation for students with limited literacy skills;

(xi) Indefinite access for students to their high school beyond plan, regardless of current school affiliation or lack thereof, in both mobile and desktop applications, that includes the capability to download and print their plan in one document, without requiring students to access multiple screens;

(xii) Inclusion of in-state labor market, apprenticeship, and postsecondary education performance data, including employment and earning outcomes, certificate and degree completion outcomes, and demographics of enrolled students or employees, to inform students' exploration and consideration of postsecondary options;

(xiii) A dedicated space where students can store additional evidence of their learning and postsecondary preparation, such as videos, essays, art, awards and recognitions, screencasts, letters of recommendation, industry certifications, microcredentials or other mastery-based learning recognitions, and work-integrated learning experiences. The universal platform should include the ability for students and staff to provide access to this portfolio in its entirety or in selected parts to relevant third parties, including institutions of higher education that are authorized to participate in state financial aid programs under chapter 28B.92 RCW, branches of the military, potential employers, or preapprenticeship opportunities;

(xiv) Access to data reporting features that allow schools, districts, and state agencies to review data stored within the universal platform, and allow data to be broken down by demographic, socioeconomic, and other identified

characteristics, for the purposes of analyzing student use of the universal platform, improving student access to the information, guidance, and opportunities that can help them maximize their secondary education experience and postsecondary preparation, and informing state-level support for high school and beyond plan implementation;

(xv) A space for the student to indicate the graduation pathway option or options the student has selected to complete and how the selected option or options align with the student's career and postsecondary education goals; and

(xvi) The ability for school districts to customize or add features unique to local needs and local graduation requirements, including the capability to auto-align data with the local school districts' graduation requirements or the ability to enter those requirements manually.

(b) The office of the superintendent of public instruction must also ensure that the universal platform will permit transition plans required by RCW 28A.155.220 to be incorporated into the universal platform in a manner that eliminates the need to create duplicate or substantially similar transition plans in other electronic or nonelectronic formats.

(5)(a) Within two years of completing the universal platform development and alignment with the requirements in this section and section 3 of this act, school districts must provide students with access to the adopted universal platform.

(b) The office of the superintendent of public instruction must develop guidance and provide technical assistance and support for the facilitation of statewide professional development for school districts and partner organizations in using the universal platform.

(6) In carrying out subsections (3)(b) and (4) of this section, the office of the superintendent of public instruction shall seek input from the state board of education, educators, school and district administrators, school counselors, career counseling specialists, families, students, the Washington student achievement council, institutions of higher education that are authorized to participate in state financial aid programs under chapter 28B.92 RCW, and community partners who support students' career and college preparation. The office of the superintendent of public instruction may partner with existing community and regional networks and organizations who support students' career and college preparation in the analysis, selection, and implementation of the universal platform.

(7) As used in this section "universal platform" means the universal online high school and beyond plan platform.

(8) The office of the superintendent of public instruction may adopt and revise rules as necessary to implement this section.

NEW SECTION. **Sec. 5.** (1) After selection of the vendor for the universal online high school and beyond plan platform as required in RCW 28A.230.215, the office of the superintendent of public instruction, in consultation with the state board of education, shall report to the governor and education committees of the legislature recommendations for additional policy changes related to transitioning the current high school and beyond plan and universal platform into a more robust online learning platform that can be used starting as early as fifth grade and that will provide greater student agency over student learning and provide opportunities for students to more meaningfully explore their strengths,

interests, and future aspirations. In addition to the existing high school and beyond plan elements identified in RCW 28A.230.215, the recommendations should examine and incorporate the following elements:

(a) A way to begin student use of a learning plan that utilizes the universal online high school and beyond plan platform no later than the fifth grade and includes ways to introduce career awareness and exploration opportunities in elementary grades as foundational support to students;

(b) Strategies for students to share their interests and engage with peers and mentors in order to obtain ongoing feedback and access to activities and learning opportunities that connect to their goals;

(c) Recommended calendar, schedule, and delivery options to ensure dedicated classroom time so that students are supported in engaging with and updating their plans multiple times per year;

(d) Strategies that increase student and family engagement with the learning plan process and encourages students to meaningfully explore their strengths, skills, and interests on an ongoing basis;

(e) Ways the universal online high school and beyond plan platform can support implementation of recommendations developed by the state board of education under subsection (2) of this section.

(2) The state board of education shall develop recommendations on how the high school and beyond plan could be modified to further support student choice and flexibility in meeting graduation requirements and preparing for postsecondary education and training, including increasing access to mastery-based learning and mastery-based crediting opportunities. The state board of education shall report the recommendations developed under this subsection to the governor and education committees of the legislature.

(3) The reports required under this section shall be submitted to the governor and the education committees of the legislature, in accordance with RCW 43.01.036, by August 1, 2025.

(4) This section expires July 1, 2026.

Sec. 6. RCW 28A.230.091 and 2018 c 229 s 2 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall work with school districts, including teachers, principals, and school counselors, educational service districts, the Washington state school directors' association, institutions of higher education ((~~as defined in RCW 28B.10.016~~)) that are authorized to participate in state financial aid programs under chapter 28B.92 RCW, students, and parents and guardians to identify best practices for high school and beyond plans that districts and schools may employ when complying with high school and beyond plan requirements adopted in accordance with ((~~RCW 28A.230.090~~)) section 3 of this act and RCW 28A.230.215. The identified best practices, which must consider differences in enrollment and other factors that distinguish districts from one another, must be posted on the website of the office of the superintendent of public instruction by September 1, 2019, and may be revised periodically as necessary.

Sec. 7. RCW 28A.230.310 and 2020 c 307 s 4 are each amended to read as follows:

(1)(a) Beginning with the 2020-21 school year, all school districts with a high school must provide a financial aid advising day, as defined in RCW 28A.300.815.

(b) Districts must provide both a financial aid advising day and notification of financial aid opportunities at the beginning of each school year to parents and guardians of any student entering the twelfth grade. The notification must include information regarding:

(i) The eligibility requirements of the Washington college grant;

(ii) The requirements of the financial aid advising day;

(iii) The process for opting out of the financial aid advising day; and

(iv) Any community-based resources available to assist parents and guardians in understanding the requirements of and how to complete the free application for federal student aid and the Washington application for state financial aid.

(2) Districts may administer the financial aid advising day, as defined in RCW 28A.300.815, in accordance with information-sharing requirements set in the high school and beyond plan in ((~~RCW 28A.230.090~~)) section 3 of this act and RCW 28A.230.215.

(3) The Washington state school directors' association, with assistance from the office of the superintendent of public instruction and the Washington student achievement council, shall develop a model policy and procedure that school district board of directors may adopt. The model policy and procedure must describe minimum standards for a financial aid advising day as defined in RCW 28A.300.815.

(4) School districts are encouraged to engage in the Washington student achievement council's financial aid advising training.

(5) The office of the superintendent of public instruction may adopt rules for the implementation of this section.

Sec. 8. RCW 28A.230.320 and 2021 c 7 s 2 are each amended to read as follows:

(1) Beginning with the class of 2020, the state board of education may authorize school districts to grant individual student emergency waivers from credit and subject area graduation requirements established in RCW 28A.230.090, the graduation pathway requirement established in RCW 28A.655.250, or both if:

(a) The student's ability to complete the requirement was impeded due to a significant disruption resulting from a local, state, or national emergency;

(b) The school district demonstrates a good faith effort to support the individual student in meeting the requirement before considering an emergency waiver;

(c) The student was reasonably expected to graduate in the school year when the emergency waiver is granted; and

(d) The student has demonstrated skills and knowledge indicating preparation for the next steps identified in their high school and beyond plan under ((~~RCW 28A.230.090~~)) section 3 of this act and RCW 28A.230.215 and for success in postsecondary education, gainful employment, and civic engagement.

(2) A school district that is granted emergency waiver authority under this section shall:

(a) Maintain a record of courses and requirements waived as part of the individual student record;

(b) Include a notation of waived credits on the student's high school transcript;

(c) Maintain records as necessary and as required by rule of the state board of education to document compliance with subsection (1)(b) of this section;

(d) Report student level emergency waiver data to the office of the superintendent of public instruction in a manner determined by the superintendent of public instruction in consultation with the state board of education;

(e) Determine if there is disproportionality among student subgroups receiving emergency waivers and, if so, take appropriate corrective actions to ensure equitable administration. At a minimum, the subgroups to be examined must include those referenced in RCW 28A.300.042(3). If further disaggregation of subgroups is available, the school district shall also examine those subgroups; and

(f) Adopt by resolution a written plan that describes the school district's process for students to request or decline an emergency waiver, and a process for students to appeal within the school district a decision to not grant an emergency waiver.

(3)(a) By November 1, 2021, and annually thereafter, the office of the superintendent of public instruction shall provide the data reported under subsection (2) of this section to the state board of education.

(b) The state board of education, by December 15, 2021, and within existing resources, shall provide the education committees of the legislature with a summary of the emergency waiver data provided by the office of the superintendent of public instruction under this subsection (3) for students in the graduating classes of 2020 and 2021. The summary must include the following information:

(i) The total number of emergency waivers requested and issued, by school district, including an indication of what requirement or requirements were waived. Information provided in accordance with this subsection (([~~(3)~~])) (3)(b)(i) must also indicate the number of students in the school district grade cohort of each student receiving a waiver; and

(ii) An analysis of any concerns regarding school district implementation, including any concerns related to school district demonstrations of good faith efforts as required by subsection (1)(b) of this section, identified by the state board of education during its review of the data.

(4) The state board of education shall adopt and may periodically revise rules for eligibility and administration of emergency waivers under this section. The rules may include:

(a) An application and approval process that allows school districts to apply to the state board of education to receive authority to grant emergency waivers in response to an emergency;

(b) Eligibility criteria for meeting the requirements established in subsection (1) of this section;

(c) Limitations on the number and type of credits that can be waived; and

(d) Expectations of the school district regarding communication with students and their parents or guardians.

(5) For purposes of this section:

(a) "Emergency" has the same meaning as "emergency or disaster" in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

(b) "School district" means any school district, charter school established under chapter 28A.710 RCW, tribal compact school operated according to the terms of state-tribal education compacts authorized under chapter 28A.715 RCW, private school, state school established under chapter 72.40 RCW, and community and technical college granting high school diplomas.

Sec. 9. RCW 28A.300.900 and 2018 c 228 s 1 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction, in consultation with the state board for community and technical colleges and the Washington state apprenticeship and training council, shall examine opportunities for promoting recognized preapprenticeship and registered youth apprenticeship opportunities for high school students.

(2) In accordance with this section, by November 1, 2018, the office of the superintendent of public instruction shall solicit input from persons and organizations with an interest or relevant expertise in registered preapprenticeship programs, registered youth apprenticeship programs, or both, and employer-based preapprenticeship and youth apprenticeship programs, and provide a report to the governor and the education committees of the house of representatives and the senate that includes recommendations for:

(a) Improving alignment between college-level vocational courses at institutions of higher education and high school curriculum and graduation requirements, including high school and beyond plans required by RCW 28A.230.090 and in accordance with section 3 of this act and RCW 28A.230.215. Recommendations provided under this subsection may include recommendations for the development or revision of career and technical education course equivalencies established in accordance with RCW 28A.700.080(1)(b) for college-level vocational courses successfully completed by a student while in high school and taken for dual credit;

(b) Identifying and removing barriers that prevent the wider exploration and use of registered preapprenticeship and registered youth apprenticeship opportunities by high school students and opportunities for registered apprenticeships by graduating secondary students; and

(c) Increasing awareness among teachers, counselors, students, parents, principals, school administrators, and the public about the opportunities offered by registered preapprenticeship and registered youth apprenticeship programs.

(3) As used in this section, "institution of higher education" has the same meaning as defined in RCW 28A.600.300.

Sec. 10. RCW 28A.655.250 and 2021 c 7 s 3 are each amended to read as follows:

(1)(a) Beginning with the class of 2020, except as provided in RCW 28A.230.320, graduation from a public high school and the earning of a high school diploma must include the following:

(i) Satisfying the graduation requirements established by the state board of education under RCW 28A.230.090 and any graduation requirements established by the applicable public high school or school district;

(ii) Satisfying credit requirements for graduation;

(iii) Demonstrating career and college readiness through completion of the high school and beyond plan as required by RCW 28A.230.090 and in accordance with section 3 of this act and RCW 28A.230.215; and

(iv) Meeting the requirements of at least one graduation pathway option established in this section. The pathway options established in this section are intended to provide a student with multiple pathways to graduating with a meaningful high school diploma that are tailored to the goals of the student. A student may choose to pursue one or more of the pathway options under (b) of this subsection, but any pathway option used by a student to demonstrate career and college readiness must be in alignment with the student's high school and beyond plan.

(b) The following graduation pathway options may be used to demonstrate career and college readiness in accordance with (a)(iv) of this subsection:

(i) Meet or exceed the graduation standard established by the state board of education under RCW 28A.305.130 on the statewide high school assessments in English language arts and mathematics as provided for under RCW 28A.655.070;

(ii) Complete and qualify for college credit in dual credit courses in English language arts and mathematics. For the purposes of this subsection, "dual credit course" means a course in which a student qualifies for college and high school credit in English language arts or mathematics upon successfully completing the course;

(iii) Earn high school credit in a high school transition course in English language arts and mathematics, an example of which includes a bridge to college course. For the purposes of this subsection (1)(b)(iii), "high school transition course" means an English language arts or mathematics course offered in high school where successful completion by a high school student ensures the student college-level placement at participating institutions of higher education as defined in RCW 28B.10.016. High school transition courses must satisfy core or elective credit graduation requirements established by the state board of education. A student's successful completion of a high school transition course does not entitle the student to be admitted to an institution of higher education as defined in RCW 28B.10.016;

(iv) Earn high school credit, with a C+ grade, or receiving a three or higher on the AP exam, or equivalent, in AP, international baccalaureate, or Cambridge international courses in English language arts and mathematics; or receiving a four or higher on international baccalaureate exams. For English language arts, successfully completing any of the following courses meets the standard: AP English language and composition literature, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics; or any of the international baccalaureate individuals and societies courses. For mathematics, successfully completing any of the following courses meets the standard: AP statistics, computer science, computer science principles, or calculus; or any of the international baccalaureate mathematics courses;

(v) Meet or exceed the scores established by the state board of education for the mathematics portion and the reading, English, or writing portion of the SAT or ACT;

(vi) Meet any combination of at least one English language arts option and at least one mathematics option established in (b)(i) through (v) of this subsection (1);

(vii) Meet standard in the armed services vocational aptitude battery; and

(viii) Complete a sequence of career and technical education courses that are relevant to a student's postsecondary pathway, including those leading to workforce entry, state or nationally approved apprenticeships, or postsecondary education, and that meet either: The curriculum requirements of core plus programs for aerospace, maritime, health care, information technology, or construction and manufacturing; or the minimum criteria identified in RCW 28A.700.030. Nothing in this subsection (1)(b)(viii) requires a student to enroll in a preparatory course that is approved under RCW 28A.700.030 for the purposes of demonstrating career and college readiness under this section.

(2) While the legislature encourages school districts to make all pathway options established in this section available to their high school students, and to expand their pathway options until that goal is met, school districts have discretion in determining which pathway options under this section they will offer to students.

(3) The state board of education shall adopt rules to implement the graduation pathway options established in this section.

NEW SECTION. **Sec. 11.** RCW 28A.655.270 (Student support for graduation—Student learning plans) and 2019 c 252 s 203 are each repealed.

Passed by the Senate April 14, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 272

[Engrossed Substitute Senate Bill 5257]
PUBLIC SCHOOLS—DAILY RECESS

AN ACT Relating to ensuring elementary school students receive sufficient daily recess for mental and physical health; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.210 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that recess is an essential part of the day for elementary school students. Young students learn through play, and recess supports the mental, physical, and emotional health of students and positively impacts their learning and behavior. Given the state's youth mental health and physical inactivity crisis, as well as learning loss due to the COVID-19 pandemic, recess is vital to support student well-being and academic success.

(2) The legislature also acknowledges that the amount of time spent on recess varies throughout the state; therefore, youth do not have equitable access to opportunities for physical activity, self-directed play, and time outdoors. The

legislature intends to set a minimum requirement for daily recess to ensure that all students have equal access to recess, but school districts are encouraged to exceed this requirement.

(3) Further, the legislature intends to clarify that recess should not be withheld as a disciplinary or punitive action during the school day, and that recess should not be withheld to compel students to complete academic work. The legislature believes that these clarifications and other policies will help make elementary school recess safe, inclusive, and high quality for all students.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.230 RCW to read as follows:

(1)(a) Beginning with the 2024-25 school year, public schools, for each school day that exceeds five hours in duration, must provide a minimum of 30 minutes of daily recess within the school day for all students in grades kindergarten through five and students in grade six that attend an elementary school.

(b) The office of the superintendent of public instruction may waive the requirement in (a) of this subsection during the 2024-25 school year for public schools demonstrating that they are unable to comply with the requirement.

(c) Public schools may provide additional recess before or after the school day, but that time may not be used to meet the requirements of this subsection (1).

(d) Time spent changing to and from clothes for outdoor play should not be used to meet the requirements of this subsection (1).

(2)(a) Recess must be supervised and student directed and must aim to be safe, inclusive, and high quality as described in the model policy and procedure referenced in section 3 of this act. It may include organized games, but public schools should avoid including, or permitting the student use of, computers, tablets, or phones during recess.

(b) Recess should be held outside whenever possible. If recess is held indoors, public schools should use an appropriate space that promotes physical activity.

(3) The daily recess required under this section may not be used to meet the physical education requirements under RCW 28A.230.040.

(4) For the purposes of this section, "public schools" has the same meaning as in RCW 28A.150.010.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.210 RCW to read as follows:

(1)(a) By April 1, 2024, the Washington state school directors' association, with the assistance of the office of the superintendent of public instruction, must review and update a model policy and procedure regarding nutrition, health, and physical education.

(b) The model policy and procedure must:

(i) Aim to make elementary school recess safe, inclusive, and high quality for all students;

(ii) Encourage physical activity breaks for middle and high school students;

(iii) Align with the requirements in section 2 of this act;

(iv) Encourage elementary school recess to be scheduled before lunch, whenever possible, to reduce food waste, maximize nutrition, and allow students to be active before eating;

(v) Discourage withholding recess as a disciplinary or punitive action except when a student's participation in recess poses an immediate threat to the safety of the student or others, and create a process to find and deploy alternatives to the withholding of recess;

(vi) Discourage the withholding of recess to have a student complete academic work;

(vii) Prohibit the use of physical activity during the school day as punishment, such as having students run laps or do push-ups as a punitive action; and

(viii) Align with corporal punishment requirements established in WAC 392-400-825.

(2) By the beginning of the 2024-25 school year, school districts must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements described in subsection (1) of this section.

Passed by the Senate April 14, 2023.
Passed by the House March 20, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 273

[Senate Bill 5282]

VEHICLE DEALERS—REPORT OF SALE FILING

AN ACT Relating to authorizing vehicle dealers to file a report of sale; and amending RCW 46.12.650.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.12.650 and 2016 c 86 s 1 are each amended to read as follows:

(1) **Releasing interest.** An owner releasing interest in a vehicle shall:

(a) Sign the release of interest section provided on the certificate of title or on a release of interest document or form approved by the department;

(b) Give the certificate of title or most recent evidence of ownership to the person gaining the interest in the vehicle;

(c) Give the person gaining interest in the vehicle an odometer disclosure statement if one is required; and

(d) Report the vehicle sold as provided in subsection (2) of this section.

(2) **Report of sale.** An owner shall notify the department, county auditor or other agent, or subagent appointed by the director in writing within five business days after a vehicle is or has been:

(a) Sold;

(b) Given as a gift to another person;

(c) Traded, either privately or to a dealership;

(d) Donated to charity;

(e) Turned over to an insurance company or wrecking yard; or

(f) Disposed of.

(3) **Report of sale properly filed.** A report of sale is properly filed if it is received by the department, county auditor or other agent, or subagent appointed by the director within five business days after the date of sale or transfer and it includes:

(a) The date of sale or transfer;

(b) The owner's full name and complete, current address;

(c) The full name and complete, current address of the person acquiring the vehicle, including street name and number, and apartment number if applicable, or post office box number, city or town, and postal code;

(d) The vehicle identification number and license plate number;

(e) A date or stamp by the department showing it was received on or before the fifth business day after the date of sale or transfer; and

(f) Payment of the fees required under RCW 46.17.050.

(4) **Report of sale - administration.** (a) The department shall:

(i) Provide or approve reports of sale forms;

(ii) Provide a system enabling an owner to submit reports of sale electronically;

(iii) Immediately update the department's vehicle record when a report of sale has been filed;

(iv) Provide instructions on release of interest forms that allow the seller of a vehicle to release their interest in a vehicle at the same time a financial institution, as defined in RCW 30A.22.040, releases its lien on the vehicle; and

(v) Send a report to the department of revenue that lists vehicles for which a report of sale has been received but no transfer of ownership has taken place. The department shall send the report once each quarter.

(b) A report of sale is not proof of a completed vehicle transfer for purposes of the collection of expenses related to towing, storage, and auction of an abandoned vehicle in situations where there is no evidence indicating the buyer knew of or was a party to acceptance of the vehicle transfer. A contract signed by the prior owner and the new owner, a certificate of title, a receipt, a purchase order or wholesale order, or other legal proof or record of acceptance of the vehicle by the new owner may be provided to establish legal responsibility for the abandoned vehicle.

(5) **Report of sale - licensed dealers.** A vehicle dealer as defined in RCW 46.70.011 may, but is not required to, file a report of sale on behalf of an owner who trades in, sells, or otherwise transfers ownership of a vehicle to the dealer. A vehicle dealer who files on behalf of an owner shall collect and remit the fees required under RCW 46.17.050 from the owner in addition to any other fees charged to or owed by the customer.

(6)(a) **Transferring ownership.** A person who has recently acquired a vehicle by purchase, exchange, gift, lease, inheritance, or legal action shall apply to the department, county auditor or other agent, or subagent appointed by the director for a new certificate of title within ((~~fifteen~~)) 15 days of delivery of the vehicle. A secured party who has possession of the certificate of title shall either:

(i) Apply for a new certificate of title on behalf of the owner and pay the fee required under RCW 46.17.100; or

(ii) Provide all required documents to the owner, as long as the transfer was not a breach of its security agreement, to allow the owner to apply for a new certificate of title.

(b) Compliance with this subsection does not affect the rights of the secured party.

(((~~(6)~~))) (7) **Certificate of title delivered to secured party.** The certificate of title must be kept by or delivered to the person who becomes the secured party when a security interest is reserved or created at the time of the transfer of ownership. The parties must comply with RCW 46.12.675.

(((~~(7)~~))) (8) **Penalty for late transfer.** A person who has recently acquired a motor vehicle by purchase, exchange, gift, lease, inheritance, or legal action who does not apply for a new certificate of title within ((~~fifteen~~)) 15 calendar days of delivery of the vehicle is charged a penalty, as described in RCW 46.17.140, when applying for a new certificate of title. It is a misdemeanor to fail or neglect to apply for a transfer of ownership within ((~~forty-five~~)) 45 days after delivery of the vehicle. The misdemeanor is a single continuing offense for each day that passes regardless of the number of days that have elapsed following the ((~~forty-five day~~)) 45-day time period.

(((~~(8)~~))) (9) **Penalty for late transfer - exceptions.** The penalty is not charged if the delay in application is due to at least one of the following:

(a) The department requests additional supporting documents;

(b) The department, county auditor or other agent, or subagent fails to perform or is neglectful;

(c) The owner is prevented from applying due to an illness or extended hospitalization;

(d) The legal owner fails or neglects to release interest;

(e) The owner did not know of the filing of a report of sale by the previous owner and signs an affidavit to the fact; or

(f) The department finds other conditions exist that adequately explain the delay.

(((~~(9)~~))) (10) **Review and issue.** The department shall review applications for certificates of title and issue certificates of title when it has determined that all applicable provisions of law have been complied with.

(((~~(10)~~))) (11) **Rules.** The department may adopt rules as necessary to implement this section.

Passed by the Senate April 17, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 274

[Senate Bill 5283]

PROFESSIONAL ENGINEER AND LAND SURVEYOR COMITY APPLICANTS—FUNDAMENTALS EXAMINATION

AN ACT Relating to the waiver of the fundamentals examination for professional engineer and land surveyor licensing applicants by comity; and amending RCW 18.43.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.43.100 and 2019 c 442 s 12 are each amended to read as follows:

(1) The board may, upon application and the payment of a fee determined by the board, issue a certificate ((~~without further examination~~)) as a professional engineer or land surveyor to any person who holds a certificate of qualification of registration issued to the applicant following examination by proper authority, of any state or territory or possession of the United States, the District of Columbia, or of any foreign country, ((~~provided: (1) That the applicant's qualifications meet the~~)) if: (a) The applicant meets all requirements of ((~~the~~)) this chapter and the rules established by the board to qualify for such waiver, and (((~~(2) that~~)) (b) the applicant is in good standing with the licensing agency in said state, territory, possession, district, or foreign country.

(2) The board shall waive the fundamentals examination for applicants who have passed the national council for examiners for engineering and surveying principles and practice examination, have met the experience and education requirements established by the board, and are in good standing with the licensing agency in a state, territory, possession, district, or foreign country.

Passed by the Senate April 17, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 275

[Engrossed Substitute Senate Bill 5301]

DEPARTMENT OF COMMERCE—HOUSING PROGRAMS—VARIOUS PROVISIONS

AN ACT Relating to housing programs administered by the department of commerce; amending RCW 43.185.010, 43.185.030, 43.185.070, 43.185.074, 43.185.080, 43.185A.010, 43.185A.020, 43.185A.060, 43.185A.070, 18.85.311, 31.04.025, 39.35D.080, 43.63A.680, 43.79.201, 43.185C.200, 43.185C.210, 47.12.063, 59.24.060, 82.14.400, and 82.45.100; reenacting and amending RCW 43.185.050 and 43.185B.020; adding a new section to chapter 42.56 RCW; adding new sections to chapter 43.185A RCW; adding a new section to chapter 43.185B RCW; recodifying RCW 43.185.010, 43.185.030, 43.185.050, 43.185.070, 43.185.074, 43.185.080, and 43.185.110; and repealing RCW 43.185.015, 43.185.020, 43.185.060, 43.185.076, 43.185.090, 43.185.100, 43.185.120, 43.185.130, 43.185.140, 43.185.910, 43.185A.030, 43.185A.050, 43.185A.080, 43.185A.090, 43.185A.100, 43.185A.110, 43.185A.120, and 43.185A.900.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.185.010 and 1991 c 356 s 1 are each amended to read as follows:

The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of low and very low-income persons to obtain safe, decent, and affordable housing.

The legislature further finds that members of over ((~~one hundred twenty thousand households live in housing units which are overcrowded, lack plumbing, are otherwise threatening to health and safety, and have rents and utility payments which exceed thirty percent of their income~~)) 150,000 households pay more than 50 percent of their income for rent and housing costs.

The legislature further finds that minorities, rural households, and migrant farmworkers require housing assistance at a rate which significantly exceeds their proportion of the general population.

The legislature further finds that one of the most dramatic housing needs is that of persons needing special housing-related services, such as ((~~the mentally ill~~)) individuals with mental illness, recovering alcoholics, frail elderly persons, families with members who have disabilities, and single parents. These services include medical assistance, counseling, chore services, and child care.

The legislature further finds that ((~~housing assistance programs in the past have often failed to help those in greatest need~~)) state investments in affordable housing, as enabled by the legislature in 1986, have exceeded $1,800,000,000 to provide over 55,000 units of safe and affordable housing to low-income individuals.

((~~The legislature declares that it is in the public interest to establish a continuously renewable resource known as the housing trust fund and housing assistance program to assist low and very low-income citizens in meeting their basic housing needs, and that the needs of very low-income citizens should be given priority and that whenever feasible, assistance should be in the form of loans.~~))

Sec. 2. RCW 43.185.030 and 2016 sp.s. c 36 s 936 are each amended to read as follows:

There is hereby created in the state treasury an account to be known as the Washington housing trust fund. The housing trust fund shall include revenue from the sources established by this chapter, appropriations by the legislature, private contributions, repayment of loans, and all other sources. ((~~During the 2015-2017 fiscal biennium, the legislature may transfer from the Washington housing trust fund to the home security fund account and to the state general fund such amounts as reflect the excess balance in the fund.~~))

Sec. 3. RCW 43.185.050 and 2021 c 332 s 7032 and 2021 c 130 s 5 are each reenacted and amended to read as follows:

(1) The department must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loan((~~s~~)) or grant projects that will provide affordable housing for persons and families with special housing needs and ((~~with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located~~)) who are low-income households.

(2) At least thirty percent of these moneys used in any given funding cycle must be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

((~~(2)~~)) (3) The department must prioritize allocating at least, but not limited to, 10 percent of these moneys used in any given funding cycle to organizations that serve and are substantially governed by individuals disproportionately impacted by homelessness, including black, indigenous, and other people of color and, lesbian, gay, bisexual, queer, transgender, and other gender-diverse individuals.

(4) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) ((~~Rent subsidies;~~

~~(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;~~

~~(d) Technical~~)) Preconstruction technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(((~~(e)~~))) (c) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(((~~(f)~~))) (d) Shelters ((~~and related services~~)) for the homeless, including emergency shelters and overnight youth shelters;

(((~~(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;~~

~~(h) Mortgage insurance guarantee or payments for eligible projects;~~

~~(i) Down payment or closing cost assistance for eligible first-time home buyers;~~

~~(j)~~))) (e) Down payment or closing costs assistance for low-income first-time home buyers;

(f) Acquisition of housing units for the purpose of preservation as low-income ((~~or very low-income~~)) housing;

(((~~(k)~~))) (g) Projects making affordable housing projects more accessible to ((~~families~~)) low-income households with members who have disabilities; and

(((~~(l)~~))) (h) Remodeling and improvements as required to meet building code, licensing requirements, or legal operations to residential properties owned and operated by an entity eligible under RCW 43.185A.040, which were transferred as described in RCW 82.45.010(3)(t) by the parent of a child with developmental disabilities.

((~~(3) Preference must be given for projects that include an early learning facility, as defined in RCW 43.31.565.~~

~~(4)~~))(5)(a) Legislative appropriations from capital bond proceeds may be used ((~~only~~)) for the costs of projects authorized under subsection (((~~(2)(a), (i), and (j)~~))) (4) of this section, ((~~and not for the administrative costs of the department,~~)) except ((~~that during the 2021-2023 fiscal biennium, the~~)) for costs of subsection (4)(c) of this section.

(b) The department may use up to three percent of the appropriations from capital bond proceeds or other new appropriations for affordable housing investments for administrative costs associated with application, distribution, and project development activities of the affordable housing ((~~assistance~~)) program.

(c) Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(((~~(5)~~)))(6)(a) Moneys received from repayment of housing trust fund loans ((~~from appropriations from capital bond proceeds~~)) or other affordable housing appropriations may be used for all activities necessary for the proper functioning of the affordable housing ((~~assistance~~)) program ((~~except for activities authorized under subsection (2)(b) and (c) of this section~~)), including, but not limited to, providing preservation funding, as provided in section 12 of this act,

and preconstruction technical assistance as provided in RCW 43.185.080 (as recodified by this act).

(((~~(6) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the housing assistance program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.~~

~~(7)~~))) (b) Administrative costs associated with compliance and monitoring activities of the department may not exceed ((~~one-quarter~~)) four-tenths of one percent annually of the contracted amount of state investment in ((~~the housing assistance program~~)) affordable housing programs.

Sec. 4. RCW 43.185.070 and 2019 c 325 s 5013 are each amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the affordable housing ((~~assistance~~)) program, the department must announce to all known interested parties, and ((~~through major media throughout the state~~)) on its website, a grant and loan application period of at least ((~~ninety~~)) 60 days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185.050 (as recodified by this act).

(2) In awarding funds under this chapter, the department must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) ((~~Until June 30, 2013, consider~~)) Consider the total cost and per-unit cost of each project for which an application is submitted for funding ((~~under RCW 43.185.050(2) (a) and (j)~~)), as compared to similar housing projects constructed or renovated within the same geographic area.

(3) ((~~The department, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.~~

~~(4) The department must give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities must be evaluated under subsection (5) of this section. Second priority must be given to activities and projects which utilize existing publicly owned housing stock.~~)) All projects and activities must be evaluated by some or all of the criteria under subsection (((~~5~~))) (6) of this section, and similar projects and activities shall be evaluated under the same criteria.

(4) The department must use a separate application form for applications to provide homeownership opportunities and evaluate homeownership project applications as allowed under chapter 43.185A RCW.

(5) The department must collaborate with public entities that finance affordable housing, including the housing finance commission, cities, and counties, in conducting joint application reviews and coordinate funding decisions in a timely manner.

(6) The department must give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities must be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least ((~~twenty-five~~)) 40 years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which ((~~are under~~)) fulfill statutory mandates to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020;

(m) Project location and access to available public transportation services; ((~~and~~))

(n) Projects involving collaborative partnerships between local school districts and either public housing authorities or nonprofit housing providers, that help children of low-income families succeed in school. To receive this preference, the local school district must provide an opportunity for community members to offer input on the proposed project at the first scheduled school board meeting following submission of the grant application to the department;

(o) The degree of funding that has already been committed to the project by nonstate entities;

(p) Projects that demonstrate a strong readiness to proceed to construction; and

(q) Projects that include a licensed early learning facility.

(7) Once the department has determined the prioritization of applications, the department must award funding projects at a sufficient level to complete the

financing package necessary for an applicant to move forward with the affordable housing project.

(8) The department may not establish a maximum per-applicant award.

Sec. 5. RCW 43.185.074 and 1987 c 513 s 11 are each amended to read as follows:

The director shall designate grant and loan applications for approval and for funding under the revenue from remittances made pursuant to RCW ((~~18.85.310. These applications shall then be reviewed for final approval by the broker's trust account board created by RCW 18.85.500.~~

~~The director shall submit to the broker's trust account board within any fiscal year only such applications which in their aggregate total funding requirements do not exceed the revenue to the housing trust found [fund] from remittances made pursuant to RCW 18.85.310 for the previous fiscal year~~)) 18.85.285.

Sec. 6. RCW 43.185.080 and 1991 c 356 s 6 are each amended to read as follows:

(1) The department may use moneys from the housing trust fund and other legislative appropriations, ((~~but not appropriations from capital bond proceeds,~~)) to provide preconstruction technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low and low-income persons. The department shall emphasize providing preconstruction technical assistance services to rural areas and small cities and towns, to nonprofits serving marginalized communities without a history of receiving housing trust fund or other affordable housing investments, and to other nonprofit community organizations led by and for black, indigenous, and persons of color. The department may contract with private and nonprofit organizations to provide this technical assistance. The department may contract for any of the following services:

(a) Financial planning and packaging for housing projects, including alternative ownership programs, such as limited equity partnerships and syndications;

(b) Project design, architectural planning, and siting;

(c) Compliance with planning requirements;

(d) Securing matching resources for project development;

(e) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, locally and state-managed funds, zoning variances, or creative local planning;

(f) Coordination with local planning, economic development, and environmental, social service, and recreational activities;

(g) Construction and materials management; and

(h) Project maintenance and management.

(2) The department shall publish requests for proposals which specify contract performance standards, award criteria, and contractor requirements. In evaluating proposals, the department shall consider the ability of the contractor to provide technical assistance to low and very low-income persons and to persons with special housing needs.

Sec. 7. RCW 43.185A.010 and 2013 c 145 s 4 are each amended to read as follows:

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

(1) "Affordable housing" means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the ((~~family's~~)) household's income. The department must adopt policies for residential homeownership housing, occupied by low-income households, which specify the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(2) "Contracted amount" ((~~has the same meaning as provided in RCW 43.185.020~~)) means the aggregate amount of all state funding for which the department has monitoring and compliance responsibility.

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

(4) "Director" means the director of the department of commerce.

(5) "First-time home buyer" means ((~~an individual or his or her spouse or domestic partner who have not owned a home during the three-year period prior to purchase of a home~~)):

(a) An individual or the individual's spouse who has had no ownership in a principal residence during the three-year period ending on the date of purchase of the property;

(b) A single parent who has only owned a home with a former spouse while married;

(c) An individual who is a displaced homemaker as defined in 24 C.F.R. Sec. 93.2 as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and has only owned a home with a spouse;

(d) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; or

(e) An individual who has only owned a property that is determined by a licensed building inspector as being uninhabitable.

(6) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located.

Sec. 8. RCW 43.185A.020 and 1995 c 399 s 103 are each amended to read as follows:

The affordable housing program is created in the department for the purpose of developing and preserving affordable housing and coordinating public and private resources targeted to meet the affordable housing needs of low-income households in the state of Washington. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020.

Sec. 9. RCW 43.185A.060 and 1991 c 356 s 15 are each amended to read as follows:

The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW ((~~43.185A.030(2) (a), (b), (c), (d), and (e)~~)) 43.185.050(4) (as recodified by this act). These policies may include, but are not limited to: (1) Requiring payment to the state of a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. The policies must require projects to remain as affordable housing for a minimum of 40 years except for projects that provide homes for low-income first-time home buyers, which must remain affordable for a minimum of 25 years.

Sec. 10. RCW 43.185A.070 and 1991 c 356 s 16 are each amended to read as follows:

((~~The~~)) (1) To the extent funds are appropriated for this purpose, the director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan.

(2) Personally identifiable information of occupants or prospective tenants of affordable housing or the street address of the residential real property occupied or applied for by tenants or prospective tenants of affordable housing, obtained by the department of commerce during monitoring activities or contract administration are exempt from inspection and copying under section 11 of this act.

NEW SECTION. **Sec. 11.** A new section is added to chapter 42.56 RCW to read as follows:

Information obtained by the department of commerce under chapter 43.185A RCW during monitoring activities or contract administration that reveals the name or other personal information of occupants or prospective tenants of affordable housing, or the street address of the residential real property occupied or applied for by tenants or prospective tenants of affordable housing, is exempt from disclosure under this chapter.

NEW SECTION. **Sec. 12.** A new section is added to chapter 43.185A RCW to read as follows:

(1) In order to maintain the long-term viability of affordable housing, using funding from the housing trust fund account established under RCW 43.185.030 (as recodified by this act) or from other legislative appropriations, the department may make competitive grant or loan awards to projects in need of major building improvements, preservation repairs, or system replacements.

(2) The department must solicit and review applications and evaluate projects based on the following criteria:

(a) The age of the property, with priority given to buildings that are more than 15 years old;

(b) The population served, with priority given to projects serving persons or families with the lowest incomes;

(c) The degree to which the applicant demonstrates that the improvements will result in a reduction of operating or utility costs, or both;

(d) The potential for additional years added to the affordability commitment period of the property; and

(e) Other criteria that the department considers necessary to achieve the purpose of the housing trust fund program.

(3) The department must require an award recipient to submit a property capital needs assessment, in a form acceptable to the department, prior to contract execution.

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.185A RCW to read as follows:

(1) The department must report on its website on an annual basis, for each funding cycle:

(a) The number of homeownership and multifamily rental projects funded;

(b) The percentage of funding allocated to homeownership and multifamily rental projects; and

(c) For both homeownership and multifamily rental projects, the total number of households being served at up to 80 percent of the area median income, up to 50 percent of the area median income, and up to 30 percent of the area median income.

(2) All housing trust fund loan or grant recipients, except for those receiving preservation awards under section 12 of this act, must provide certified final development cost reports to the department in a form acceptable to the department. The department must use the certified final development cost reports data as part of its cost containment policy and to report to the legislature. Beginning December 1, 2023, and continuing every odd-numbered year, the department must provide the appropriate committees of the legislature with a report of its final cost data for each project funded through the housing trust fund. Such cost data must, at a minimum, include:

(a) Total development cost per unit for each project completed within the past two complete fiscal years; and

(b) Descriptive statistics such as average and median per unit costs, regional cost variation, and other costs that the department deems necessary to improve cost controls and enhance understanding of development costs.

(3) The department must coordinate with the housing finance commission to identify relevant development costs data and ensure that the measures are consistent across relevant agencies.

Sec. 14. RCW 18.85.311 and 2008 c 23 s 38 are each amended to read as follows:

Remittances received by the state treasurer pursuant to RCW 18.85.285 shall be divided between the housing trust fund created by RCW 43.185.030 (as recodified by this act), which shall receive seventy-five percent and the real estate education program account created by RCW 18.85.321, which shall receive twenty-five percent.

Sec. 15. RCW 31.04.025 and 2015 c 229 s 20 are each amended to read as follows:

(1) Each loan made to a resident of this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter.

(2) This chapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions;

(b) Entities making loans under chapter 19.60 RCW (pawnbroking);

(c) Entities conducting transactions under chapter 63.14 RCW (retail installment sales of goods and services), unless credit is extended to purchase merchandise certificates, coupons, open or closed loop stored value, or other similar items issued and redeemable by a retail seller other than the retail seller extending the credit;

(d) Entities making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary dwelling;

(f) Any person selling property owned by that person who provides financing for the sale when the property does not contain a dwelling and when the property serves as security for the financing. This exemption is available for five or fewer transactions in a calendar year. This exemption is not available to individuals subject to the federal S.A.F.E. act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings;

(g) Any person making loans made to government or government agencies or instrumentalities or making loans to organizations as defined in the federal truth in lending act;

(h) Entities making loans under chapter ((~~43.185~~)) 43.185A RCW (housing trust fund);

(i) Entities making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;

(j) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents;

(k) Entities making loans which are not residential mortgage loans under a credit card plan;

(l) Individuals employed by a licensed residential mortgage loan servicing company engaging in activities related to servicing, unless licensing is required by federal law or regulation; and

(m) Entities licensed under chapter 18.44 RCW that process payments on seller-financed loans secured by liens on real or personal property.

(3) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers.

(4) The burden of proving the application for an exemption or exception from a definition, or a preemption of a provision of this chapter, is upon the person claiming the exemption, exception, or preemption.

(5) The director may adopt rules interpreting this section.

Sec. 16. RCW 39.35D.080 and 2005 c 12 s 12 are each amended to read as follows:

Except as provided in this section, affordable housing projects funded out of the state capital budget are exempt from the provisions of this chapter. On or before July 1, 2008, the department of ((~~community, trade, and economic development~~)) commerce shall identify, implement, and apply a sustainable building program for affordable housing projects that receive housing trust fund (under chapter ((~~43.185~~)) 43.185A RCW) funding in a state capital budget. The department of ((~~community, trade, and economic development~~)) commerce shall not develop its own sustainable building standard, but shall work with stakeholders to adopt an existing sustainable building standard or criteria appropriate for affordable housing. Any application of the program to affordable housing, including any monitoring to track the performance of either sustainable features or energy standards or both, is the responsibility of the department of ((~~community, trade, and economic development~~)) commerce. Beginning in 2009 and ending in 2016, the department of ((~~community, trade, and economic development~~)) commerce shall report to the department as required under RCW 39.35D.030(3)(b).

Sec. 17. RCW 43.63A.680 and 1993 c 478 s 19 are each amended to read as follows:

(1) The department may develop and administer a home-matching program for the purpose of providing grants and technical assistance to eligible organizations to operate local home-matching programs. For purposes of this section, "eligible organizations" are those organizations eligible to receive assistance through the Washington housing trust fund, chapter ((~~43.185~~)) 43.185A RCW.

(2) The department may select up to five eligible organizations for the purpose of implementing a local home-matching program. The local home-matching programs are designed to facilitate: (a) Intergenerational homesharing involving older homeowners sharing homes with younger persons; (b) homesharing arrangements that involve an exchange of services such as cooking, housework, gardening, or babysitting for room and board or some financial consideration such as rent; and (c) the more efficient use of available housing.

(3) In selecting local pilot programs under this section, the department shall consider:

(a) The eligible organization's ability, stability, and resources to implement the local home-matching program;

(b) The eligible organization's efforts to coordinate other support services needed by the individual or family participating in the local home-matching program; and

(c) Other factors the department deems appropriate.

(4) The eligible organizations shall establish criteria for participation in the local home-matching program. The eligible organization shall make a

determination of eligibility regarding the individuals' or families' participation in the local home-matching program. The determination shall include, but is not limited to a verification of the individual's or family's history of making rent payments in a consistent and timely manner.

Sec. 18. RCW 43.79.201 and 2016 sp.s. c 36 s 930 are each amended to read as follows:

(1) The charitable, educational, penal and reformatory institutions account is hereby created, in the state treasury, into which account there shall be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893.

(2) If feasible, not less than one-half of all income to the charitable, educational, penal, and reformatory institutions account shall be appropriated for the purpose of providing housing, including repair and renovation of state institutions, for persons with mental illness or developmental disabilities, or youth who are blind, deaf, or otherwise disabled. If moneys are appropriated for community-based housing, the moneys shall be appropriated to the department of commerce for the housing assistance program under chapter ((~~43.185~~)) 43.185A RCW. During the 2015-2017 fiscal biennium, the legislature may transfer from the charitable, educational, penal and reformatory institutions account to the state general fund such amounts as reflect excess fund balance of the account.

Sec. 19. RCW 43.185C.200 and 2007 c 483 s 604 are each amended to read as follows:

(1) The department of ((~~community, trade, and economic development~~)) commerce shall establish a pilot program to provide grants to eligible organizations, as described in RCW ((~~43.185.060~~)) 43.185A.040, to provide transitional housing assistance to offenders who are reentering the community and are in need of housing.

(2) There shall be a minimum of two pilot programs established in two counties. The pilot programs shall be selected through a request for proposal process and in consultation with the department of corrections. The department shall select the pilot sites by January 1, 2008.

(3) The pilot program shall:

(a) Be operated in collaboration with the community justice center existing in the location of the pilot site;

(b) Offer transitional supportive housing that includes individual support and mentoring available on an ongoing basis, life skills training, and close working relationships with community justice centers and community corrections officers. Supportive housing services can be provided directly by the housing operator, or in partnership with community-based organizations;

(c) In providing assistance, give priority to offenders who are designated as high risk or high needs as well as those determined not to have a viable release plan by the department of corrections;

(d) Optimize available funding by utilizing cost-effective community-based shared housing arrangements or other noninstitutional living arrangements; and

(e) Provide housing assistance for a period of time not to exceed twelve months for a participating offender.

(4) The department may also use up to twenty percent of the funding appropriated in the operating budget for this section to support the development of additional supportive housing resources for offenders who are reentering the community.

(5) The department shall:

(a) Collaborate with the department of corrections in developing criteria to determine who will qualify for housing assistance; and

(b) Gather data, and report to the legislature by November 1, 2008, on the number of offenders seeking housing, the number of offenders eligible for housing, the number of offenders who receive the housing, and the number of offenders who commit new crimes while residing in the housing to the extent information is available.

(6) The department of corrections shall collaborate with organizations receiving grant funds to:

(a) Help identify appropriate housing solutions in the community for offenders;

(b) Where possible, facilitate an offender's application for housing prior to discharge;

(c) Identify enhancements to training provided to offenders prior to discharge that may assist an offender in effectively transitioning to the community;

(d) Maintain communication between the organization receiving grant funds, the housing provider, and corrections staff supervising the offender; and

(e) Assist the offender in accessing resources and services available through the department of corrections and a community justice center.

(7) The state, department of ((~~community, trade, and economic development~~)) commerce, department of corrections, local governments, local housing authorities, eligible organizations as described in RCW ((~~43.185.060~~)) 43.185A.040, and their employees are not liable for civil damages arising from the criminal conduct of an offender solely due to the placement of an offender in housing provided under this section or the provision of housing assistance.

(8) Nothing in this section allows placement of an offender into housing without an analysis of the risk the offender may pose to that particular community or other residents.

Sec. 20. RCW 43.185C.210 and 2020 c 155 s 1 are each amended to read as follows:

(1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW ((~~43.185.060~~)) 43.185A.040, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

(6) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to support: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

Sec. 21. RCW 47.12.063 and 2022 c 186 s 710 are each amended to read as follows:

(1) It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing of property through its surplus property program under this section.

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for transportation purposes and that it is in the public interest to do so, the department may sell the property or exchange it in full or part consideration for land or building improvements or for construction of highway improvements at fair market value to any person through the solicitation of written bids through public advertising in the manner prescribed under RCW 47.28.050 or in the manner prescribed under RCW 47.12.283.

(3) The department may forego the processes prescribed by RCW 47.28.050 and 47.12.283 and sell the real property to any of the following entities or persons at fair market value:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) Regional transit authorities created under chapter 81.112 RCW;

(e) The former owner of the property from whom the state acquired title;

(f) In the case of residentially improved property, a tenant of the department who has resided thereon for not less than six months and who is not delinquent in paying rent to the state;

(g) Any abutting private owner but only after each other abutting private owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within 15 days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283;

(h) To any other owner of real property required for transportation purposes;

(i) In the case of property suitable for residential use, any nonprofit organization dedicated to providing affordable housing to very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510 and is eligible to receive assistance through the Washington housing trust fund created in chapter ((~~43.185~~)) 43.185A RCW;

(j) During the 2021-2023 fiscal biennium, any nonprofit organization that identifies real property to be sold or conveyed as a substitute for real property owned by the nonprofit within the city of Seattle to be redeveloped for the purpose of affordable housing; or

(k) A federally recognized Indian tribe within whose reservation boundary the property is located.

(4) When selling real property pursuant to RCW 47.12.283, the department may withhold or withdraw the property from an auction when requested by one of the entities or persons listed in subsection (3) of this section and only after the receipt of a nonrefundable deposit equal to 10 percent of the fair market value of the real property or $5,000, whichever is less. This subsection does not prohibit the department from exercising its discretion to withhold or withdraw the real property from an auction if the department determines that the property is no longer surplus or chooses to sell the property through one of the other means listed in subsection (2) of this section. If a transaction under this subsection is not completed within 60 days, the real property must be put back up for sale.

(5) Sales to purchasers may, at the department's option, be for cash, by real estate contract, or exchange of land or highway improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28 RCW and Title 39 RCW, as applicable, and must comply with all other applicable laws and rules.

(6) Conveyances made pursuant to this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(7) Unless otherwise provided, all moneys received pursuant to the provisions of this section less any real estate broker commissions paid pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

(8) The department may not enter into equal value exchanges or property acquisitions for building improvements without first consulting with the office of financial management and the joint transportation committee.

Sec. 22. RCW 59.24.060 and 1995 c 399 s 159 are each amended to read as follows:

The department of ((~~community, trade, and economic development~~)) commerce may receive such gifts, grants, or endowments from public or private sources, as may be made from time to time, in trust or otherwise, to be used by the department of ((~~community, trade, and economic development~~)) commerce for its programs, including the rental security deposit guarantee program. Funds from the housing trust fund, chapter ((~~43.185~~)) 43.185A RCW, up to one hundred thousand dollars, may be used for the rental security deposit guarantee program by the department of ((~~community, trade, and economic development~~)) commerce, local governments, and nonprofit organizations, provided all the requirements of this chapter and chapter ((~~43.185~~)) 43.185A RCW are met.

Sec. 23. RCW 82.14.400 and 2020 c 139 s 24 are each amended to read as follows:

(1) Upon the joint request of a metropolitan park district, a city with a population of more than one hundred fifty thousand, and a county legislative authority in a county with a national park and a population of more than five hundred thousand and less than one million five hundred thousand, the county must submit an authorizing proposition to the county voters, fixing and imposing a sales and use tax in accordance with this chapter for the purposes designated in subsection (4) of this section and identified in the joint request. Such proposition must be placed on a ballot for a special or general election to be held no later than one year after the date of the joint request.

(2) The proposition is approved if it receives the votes of a majority of those voting on the proposition.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax must equal no more than one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(4) Moneys received from any tax imposed under this section must be used solely for the purpose of providing funds for:

(a) Costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, reequipping, or improvement of zoo, aquarium, and wildlife preservation and display facilities that are currently accredited by the American zoo and aquarium association; or

(b) Those costs associated with (a) of this subsection and costs related to parks located within a county described in subsection (1) of this section.

(5) The department must perform the collection of such taxes on behalf of the county at no cost to the county. In lieu of the charge for the administration and collection of local sales and use taxes under RCW 82.14.050 from which the county is exempt under this subsection (5), a percentage of the tax revenues authorized by this section equal to one-half of the maximum percentage provided in RCW 82.14.050 must be transferred annually to the department of commerce, or its successor agency, from the funds allocated under subsection (6)(b) of this section for a period of twelve years from the first date of distribution of funds under subsection (6)(b) of this section. The department of commerce, or its successor agency, must use funds transferred to it pursuant to this subsection (5) to provide, operate, and maintain community-based housing under chapter ((~~43.185~~)) 43.185A RCW for individuals with mental illness.

(6) If the joint request and the authorizing proposition include provisions for funding those costs included within subsection (4)(b) of this section, the tax revenues authorized by this section must be allocated annually as follows:

(a) Fifty percent to the zoo and aquarium advisory authority; and

(b) Fifty percent to be distributed on a per capita basis as set out in the most recent population figures for unincorporated and incorporated areas only within that county, as determined by the office of financial management, solely for parks, as follows: To any metropolitan park district, to cities and towns not contained within a metropolitan park district, and the remainder to the county. Moneys received under this subsection (6)(b) by a county may not be used to replace or supplant existing per capita funding.

(7) Funds must be distributed annually by the county treasurer to the county, and cities and towns located within the county, in the manner set out in subsection (6)(b) of this section.

(8) Prior to expenditure of any funds received by the county under subsection (6)(b) of this section, the county must establish a process which considers needs throughout the unincorporated areas of the county in consultation with community advisory councils established by ordinance.

(9) By December 31, 2005, and thereafter, the county or any city with a population greater than eighty thousand must provide at least one dollar match for every two dollars received under this section.

(10) Properties subject to a memorandum of agreement between the federal bureau of land management, the advisory council on historic preservation, and

the Washington state historic preservation officer have priority for funding from money received under subsection (6)(b) of this section for implementation of the stipulations in the memorandum of agreement.

(a) At least one hundred thousand dollars of the first four years of allocations under subsection (6)(b) of this section, to be matched by the county or city with one dollar for every two dollars received, must be used to implement the stipulations of the memorandum of agreement and for other historical, archaeological, architectural, and cultural preservation and improvements related to the properties.

(b) The amount in (a) of this subsection must come equally from the allocations to the county and to the city in which the properties are located, unless otherwise agreed to by the county and the city.

(c) The amount in (a) of this subsection may not be construed to displace or be offered in lieu of any lease payment from a county or city to the state for the properties in question.

Sec. 24. RCW 82.45.100 and 2010 1st sp.s. c 23 s 211 are each amended to read as follows:

(1) Payment of the tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within one month thereafter will bear interest from the time of sale until the date of payment.

(a) Interest imposed before January 1, 1999, is computed at the rate of one percent per month.

(b) Interest imposed after December 31, 1998, is computed on a monthly basis at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year. The department must provide written notification to the county treasurers of the variable rate on or before December 1st of the year preceding the calendar year in which the rate applies.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer or the department of revenue, as the case may be, within one month of the date due, there is assessed a penalty of five percent of the amount of the tax; if the tax is not received within two months of the date due, there will be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within three months of the date due, there will be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection is collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If the tax imposed under this chapter is not received by the due date, the transferee is personally liable for the tax, along with any interest as provided in subsection (1) of this section, unless an instrument evidencing the sale is recorded in the official real property records of the county in which the property conveyed is located.

(4) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department must assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. The department must notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the same becomes

due and must be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(5) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of:

(a) Fraud or misrepresentation of a material fact by the taxpayer;

(b) A failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer; or

(c) A failure of the transferor or transferee to report the sale under RCW 82.45.090(2).

(6) Penalties collected on taxes due under this chapter under subsection (2) of this section and RCW 82.32.090 (2) through (8) must be deposited in the housing trust fund as described in chapter ((~~43.185~~)) 43.185A RCW.

Sec. 25. RCW 43.185B.020 and 2022 c 266 s 53 [3] and 2022 c 165 s 8 are each reenacted and amended to read as follows:

(1) The department shall establish the affordable housing advisory board to consist of ((~~23~~)) 25 members.

(a) The following ((~~20~~)) 22 members shall be appointed by the governor:

(i) Two representatives of the residential construction industry;

(ii) Two representatives of the home mortgage lending profession;

(iii) One representative of the real estate sales profession;

(iv) One representative of the apartment management and operation industry;

(v) One representative of the for-profit housing development industry;

(vi) One representative of for-profit rental housing owners;

(vii) One representative of the nonprofit housing development industry;

(viii) One representative of homeless shelter operators;

(ix) One representative of lower-income persons;

(x) One representative of special needs populations;

(xi) One representative of public housing authorities as created under chapter 35.82 RCW;

(xii) Two representatives of the Washington association of counties, one representative shall be from a county that is located east of the crest of the Cascade mountains;

(xiii) Two representatives of the association of Washington cities, one representative shall be from a city that is located east of the crest of the Cascade mountains;

(xiv) One representative to serve as chair of the affordable housing advisory board;

(xv) One representative of organizations that operate site-based permanent supportive housing and deliver onsite supportive housing services; ((~~and~~))

(xvi) One representative at large; ((~~and~~

(~~xvi~~))) (xvii) One representative from a unit owners' association as defined in RCW 64.34.020 or 64.90.010; and

(xviii) One representative from an interlocal housing collaboration as established under chapter 39.34 RCW.

(b) The following three members shall serve as ex officio, nonvoting members:

(i) The director or the director's designee;

(ii) The executive director of the Washington state housing finance commission or the executive director's designee; and

(iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board.

NEW SECTION. **Sec. 26.** (1) RCW 43.185.010, 43.185.030, 43.185.050, 43.185.070, 43.185.074, and 43.185.080 are each recodified as sections in chapter 43.185A RCW.

(2) RCW 43.185.110 is recodified as a section in chapter 43.185B RCW.

NEW SECTION. **Sec. 27.** The following acts or parts of acts are each repealed:

(1) RCW 43.185.015 (Housing assistance program) and 1995 c 399 s 100 & 1991 c 356 s 2;

(2) RCW 43.185.020 (Definitions) and 2013 c 145 s 1, 2009 c 565 s 37, 1995 c 399 s 101, & 1986 c 298 s 3;

(3) RCW 43.185.060 (Eligible organizations) and 2019 c 325 s 5012, 2014 c 225 s 61, 1994 c 160 s 2, 1991 c 295 s 1, & 1986 c 298 s 7;

(4) RCW 43.185.076 (Low-income housing grants and loans—Approval—License education programs) and 1988 c 286 s 3 & 1987 c 513 s 10;

(5) RCW 43.185.090 (Compliance monitoring) and 1986 c 298 s 10;

(6) RCW 43.185.100 (Rule-making authority) and 1987 c 513 s 2 & 1986 c 298 s 11;

(7) RCW 43.185.120 (Protection of state's interest) and 1991 c 356 s 7;

(8) RCW 43.185.130 (Application process—Distribution procedure) and 2006 c 349 s 3;

(9) RCW 43.185.140 (Findings—Review of all housing properties—Energy audits) and 2009 c 379 s 301;

(10) RCW 43.185.910 (Conflict with federal requirements—1991 c 356) and 1991 c 356 s 8;

(11) RCW 43.185A.030 (Activities eligible for assistance) and 2013 c 145 s 5 & 2011 1st sp.s. c 50 s 954;

(12) RCW 43.185A.050 (Grant and loan application process—Report) and 2013 c 145 s 6, 2012 c 235 s 2, & 1991 c 356 s 14;

(13) RCW 43.185A.080 (Rules) and 1991 c 356 s 17;

(14) RCW 43.185A.090 (Application process—Distribution procedure) and 2006 c 349 s 4;

(15) RCW 43.185A.100 (Housing programs and services—Review of reporting requirements—Report to the legislature) and 2006 c 349 s 11;

(16) RCW 43.185A.110 (Affordable housing land acquisition revolving loan fund program) and 2017 c 274 s 1, 2008 c 112 s 1, & 2007 c 428 s 2;

(17) RCW 43.185A.120 (Affordable housing and community facilities rapid response loan program) and 2008 c 112 s 2; and

(18) RCW 43.185A.900 (Short title) and 1991 c 356 s 9.

Passed by the Senate April 17, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 276

[Engrossed Senate Bill 5341]

FOOD AND AGRICULTURAL PRODUCT LOCATION-BASED PROMOTION PROGRAM

AN ACT Relating to creating a location-based promotion program for Washington food and agricultural products; adding a new chapter to Title 15 RCW; and repealing RCW 15.105.005, 15.105.010, 15.105.020, 15.105.030, 15.105.040, 15.105.050, 15.105.060, and 15.105.901.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington is one of only five states in the nation without a state program to help food and agricultural producers promote their products based on where the product is grown, raised, or caught. The legislature further finds that a location-based promotion program will help consumers support Washington producers and the state's agricultural economy by building upon Washington's strong reputation for characteristics like food quality and food safety, which are key factors in consumer purchasing decisions.

(2) The legislature recognizes that recent food policy forum reports to the legislature recommend creation of a program to promote Washington food and agricultural products, and that such a location-based brand recognition program would help identify Washington products for procurement by schools and other public institutions and would provide strong marketing tools to help differentiate Washington products, making them more visible to consumers and more competitive in the local, state, regional, national, and international marketplace.

The legislature further recognizes that a new program is needed because a previous promotion program, which was formally dissolved in 2008 and was based primarily on one-time federal funding, did not provide a sustainable structure or a statutory framework that was suitable for most Washington food and agricultural producers.

(3) The legislature therefore intends that the Washington department of agriculture gather advisory committee input and submit recommendations to the legislature prior to developing a location-based promotion program that is voluntary, sustainable, and suitable for Washington food and agricultural producers. The legislature further intends that this program provide support for food producers across the state in a manner that is equitable and inclusive of all scales of Washington agriculture including, but not limited to, serving historically underrepresented producers, producers from less resourced geographies, and producers with less access to support systems and funding.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agricultural product" has the same meaning as the term "agricultural commodities" in RCW 15.66.010, and is broadly construed to include, but is not limited to, all agricultural products or commodities grown or raised on Washington lands or caught in Washington waters, or foods, including processed or manufactured foods, containing such agricultural products.

(2) "Department" means the Washington department of agriculture.

(3) "Director" means the director of the department or the director's designee.

(4) "Food" has the same meaning as the term "food" in RCW 15.130.110.

(5) "Program" means the location-based promotion program created in this chapter to promote local food and agricultural products and make them more visible to consumers.

NEW SECTION. **Sec. 3.** (1) The director must establish an advisory committee with representatives from interested agricultural and food production organizations for the purpose of identifying the appropriate scope and nature of a voluntary location-based program to brand and promote local food and agricultural products. During the fiscal year ending June 30, 2024, the director must submit a report containing recommendations for program development and implementation to the appropriate committees of the legislature.

(2) The report submitted under subsection (1) of this section must include, but is not limited to, department and advisory committee recommendations on how best to proceed or not proceed with developing and implementing the following program elements:

(a) Eligibility criteria for: (i) The use of location-based branding sanctioned by the program to identify where an agricultural product was grown, raised, or caught; (ii) the use of location-based branding sanctioned by the program for processed or manufactured food products containing such agricultural products; and (iii) participating in program-sanctioned promotional activities for the agricultural products or foods containing the agricultural products. The criteria must include, but are not limited to, identifying thresholds for the necessary amount of time a product has been located within a specific geographical area in Washington, within lands or waters of Washington, or within lands or waters of

other Pacific Northwest states or provinces neighboring Washington, and thresholds for the necessary amount of such food products in a processed or manufactured food product, to be eligible;

(b) Application, approval, certification, verification, renewal, audit, enforcement, or cancellation procedures for using product identification, branding, logos, or labels sanctioned by the program, or for participating in program-sanctioned promotional activities;

(c) Licensing fees, fee waivers, cost recovery mechanisms, or fee structures for membership, for using product identification, branding, logos, or labels sanctioned by the program, or for participating in program-sanctioned promotional activities;

(d) Creation, purchase, acquisition, protection, and blending of brand, logo, and trademark ownership or licensing rights;

(e) Cooperative agreements to jointly carry out program or program-sanctioned activities and administration; and

(f) Any other action designed to help Washington food and agricultural producers promote their products and make them more visible and appealing to consumers and more competitive in the local, regional, national, and international marketplace of their choice including, but not limited to, retail stores, farmers markets, schools, restaurants, institutions, and other market channels.

(3) Following submission of the report required in subsection (1) of this section, the director may adopt rules as necessary to implement the program. These rules may include any recommended fees or structures for determining fees, fee waivers, cost recovery mechanisms, or other elements listed in subsection (2) of this section. Rules consistent with the recommendations submitted in the report qualify for expedited rule making under RCW 34.05.353. Prior to creating criteria related to particular agricultural products under the jurisdiction of an agricultural board or commission organized under state law, the director must consult with representatives of the appropriate board or commission. If the rules include a structure for determining fees, the director may subsequently amend the rules and increase or decrease fees consistent with the structure for determining fees.

(4) Nothing in this chapter precludes or prohibits the department or others, including but not limited to other agencies, boards, commissions, and associations, from separately promoting the origin of food and agricultural products grown, raised, or caught in Washington. Such promotional activities must be consistent with pertinent legal authorities including, but not limited to, RCW 15.130.210, which prohibits misbranding of food origins as part of Washington's food safety and security act, chapter 15.130 RCW, and RCW 15.04.410, which relies on Washington's consumer protection act, chapter 19.86 RCW, and prohibits false retail sale declarations related to agricultural products held out as Washington agricultural products that are not in fact Washington agricultural products.

(5) Funds received for the purposes of this chapter must be deposited in the agricultural local fund created in RCW 43.23.230 to carry out the purposes of this chapter.

(6) The department must actively seek nonstate funding sources to support program operation and may receive gifts, grants, or endowments from private or

public sources, made in trust or otherwise, for the use and benefit of the program, consistent with the provisions of this chapter and any terms of the gift, grant, or endowment. Expenditures may be used only for those purposes identified in this chapter. Only the director of agriculture or the director's designee may authorize expenditures of the gifts, grants, or endowments.

NEW SECTION. **Sec. 4.** This chapter may be known and cited as the Washington food and agricultural product promotion act.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. **Sec. 6.** The following acts or parts of acts are each repealed:

(1) RCW 15.105.005 (Findings) and 2004 c 26 s 1;

(2) RCW 15.105.010 (Definitions) and 2004 c 26 s 2;

(3) RCW 15.105.020 (Establishing a private, nonprofit corporation—Duties of successor organization—Debts and other liabilities) and 2021 c 176 s 5203 & 2004 c 26 s 3;

(4) RCW 15.105.030 (Actions by department to establish a successor organization) and 2004 c 26 s 4;

(5) RCW 15.105.040 (Board of directors of the successor organization—State membership) and 2004 c 26 s 5;

(6) RCW 15.105.050 (Program logo) and 2004 c 26 s 6;

(7) RCW 15.105.060 (Gifts, grants, or endowments) and 2004 c 26 s 7; and

(8) RCW 15.105.901 (Effective date—2004 c 26) and 2004 c 26 s 10.

Passed by the Senate February 27, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 277

[Substitute Senate Bill 5386]

DOCUMENT RECORDING FEES—VARIOUS PROVISIONS

AN ACT Relating to reducing administrative complexity by increasing transparency of revenue flows for activities funded by document recording fees; amending RCW 43.185C.010, 43.185C.045, 43.185C.070, 43.185C.080, 43.185C.185, 36.18.010, 84.36.560, and 84.36.675; reenacting and amending RCW 43.185C.060, 43.185C.190, and 59.18.030; adding a new section to chapter 36.22 RCW; repealing RCW 36.22.176, 36.22.178, 36.22.179, 36.22.1791, 43.185C.061, and 43.185C.215; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 36.22 RCW to read as follows:

(1) A surcharge of $183 per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. The following are exempt from this surcharge:

(a) Assignments or substitutions of previously recorded deeds of trust;

(b) Documents recording a birth, marriage, divorce, or death;

(c) Any recorded documents otherwise exempted from a recording fee or additional surcharges under state law;

(d) Marriage licenses issued by the county auditor; and

(e) Documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.

(2) Funds collected pursuant to this section must be distributed and used as follows:

(a) One percent of the total funds collected shall be retained by the county auditor for its fee collection activities;

(b) 30 percent of the total funds collected shall be retained by the county and used by the county as provided in subsection (3) of this section;

(c) 54.1 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the home security fund account created in RCW 43.185C.060 and shall be used by the department of commerce as provided in subsection (4) of this section;

(d) 13.1 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the affordable housing for all account created in RCW 43.185C.190 and shall be used by the department of commerce as provided in subsection (5) of this section;

(e) 1.8 percent of the total funds collected shall be transmitted to the state treasurer to be deposited in the landlord mitigation program account created in RCW 43.31.615 and shall be used by the department of commerce as provided in subsection (6) of this section.

(3) The county shall use their portion of the collected funds as follows:

(a) Up to 10 percent for the county's administration and local distribution of the funds collected from the surcharge in this section, and administrative costs related to the county's homeless housing plan;

(b) At least 75 percent will be retained and used by the county to accomplish the purposes of its local homeless housing plan pursuant to chapter 484, Laws of 2005. For each city in the county that elects as authorized in RCW 43.185C.080 to operate its own local homeless housing program, a percentage of the surcharge assessed under this subsection equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's local homeless housing plan; of the funds received by the city, it may use up to 10 percent for administrative costs for its homeless housing program;

(c) At least 15 percent will be retained and used by the county for eligible housing activities, as described in this subsection, that serve extremely low and very low-income households in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county consistent with countywide and local housing needs and policies. A priority must be given to eligible housing activities that serve extremely low-income households with incomes at or below 30 percent of the area median income. Eligible housing activities to be funded are limited to:

(i) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income households with incomes at or below 50 percent of the area median income, including units for homeownership, rental units, seasonal and permanent farmworker housing units,

units reserved for victims of human trafficking and their families, and single room occupancy units;

(ii) Supporting building operation and maintenance costs of housing projects or units within housing projects eligible to receive housing trust funds, that are affordable to very low-income households with incomes at or below 50 percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(iii) Rental assistance vouchers for housing units that are affordable to very low-income households with incomes at or below 50 percent of the area median income, including rental housing vouchers for victims of human trafficking and their families, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with or similar to the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(iv) Operating costs for emergency shelters and licensed overnight youth shelters.

(4) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the home security fund account as follows, except that the department of commerce shall provide counties with the right of first refusal to receive grant funds distributed under (b) of this subsection (4). If a county refuses the funds or does not respond within a time frame established by the department, the department shall make good faith efforts to identify one or more suitable alternative grantees operating within that county. The alternative grantee shall distribute the funds in a manner that is in compliance with this chapter. Funding provided through the office of homeless youth prevention and protection programs created in RCW 43.330.705 is exempt from the county first refusal requirement.

(a) Up to 10 percent for administration of the programs established in chapter 43.185C RCW and in conformance with this subsection (4), including the costs of creating and implementing strategic plans, collecting and evaluating data, measuring and reporting performance, providing technical assistance to local governments, providing training to entities delivering services, and developing and maintaining stakeholder relationships;

(b) At least 90 percent for homelessness assistance grant programs administered by the department, including but not limited to: Temporary rental assistance; eviction prevention rental assistance per RCW 43.185C.185; emergency shelter and transitional housing operations and maintenance; outreach; diversion; HOPE and crisis residential centers; young adult housing; homeless services and case management for adult, family, youth, and young adult homeless populations and those at risk of homelessness; project-based vouchers for nonprofit housing providers or public housing authorities; tenant-based rent assistance; housing services; rapid rehousing; emergency housing; acquisition; operations; maintenance; and service costs for permanent supportive housing as defined in RCW 36.70A.030 for individuals with disabilities. Grantees may also use these funds in partnership with permanent supportive housing programs administered by the office of apple health and homes created in RCW 43.330.181. Priority for use must be given to purposes intended to house persons who are chronically homeless or to maintain housing for

individuals with disabilities and prior experiences of homelessness, including families with children.

(5) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the affordable housing for all account as follows:

(a) Up to 10 percent for program administration and technical assistance necessary for the delivery programs and activities under this subsection (5);

(b) At least 90 percent for the following:

(i) Grants for building operation and maintenance costs of housing projects, or units within housing projects, that are in the state's housing trust fund portfolio, are affordable to extremely low-income households with incomes at or below 30 percent of the area median income, and require a supplement to rent income to cover ongoing operating expenses;

(ii) Grants to support the building operations, maintenance, and supportive service costs for permanent supportive housing projects, or units within housing projects, that have received or will receive funding from the housing trust fund or other public capital funding programs. The supported projects or units must be dedicated as permanent supportive housing as defined in RCW 36.70A.030, be occupied by extremely low-income households with incomes at or below 30 percent of the area median income, and require a supplement to rent income to cover ongoing property operations, maintenance, and supportive services expenses.

(6) The department of commerce shall use the funds from the document recording fee or other fund sources deposited in the landlord mitigation program account to administer the landlord mitigation program as established in RCW 43.31.605. The department of commerce may use up to 10 percent of these funds for program administration and the development and maintenance of a database necessary to administer the program.

Sec. 2. RCW 43.185C.010 and 2019 c 124 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) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center.

(2) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department of children, youth, and families seeking adjudication of placement of the child.

(3) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(4) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

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

(6) "Director" means the director of the department of commerce.

(7) "Home security fund account" means the state treasury account receiving ((~~the state's portion of~~)) income from revenue ((~~from the sources established by RCW 36.22.179 and 36.22.1791~~)) under section 1(2)(c) of this act, and all other sources directed to the homeless housing and assistance program.

(8) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(9) "Homeless housing plan" means the five-year plan developed by the county or other local government to address housing for homeless persons.

(10) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(11) "Homeless housing strategic plan" means the five-year plan developed by the department, in consultation with the interagency council on homelessness, the affordable housing advisory board, and the state advisory council on homelessness.

(12) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, people with mental illness, and sex offenders who are homeless.

(13) "HOPE center" means an agency licensed by the secretary of the department of children, youth, and families to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(16) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of commerce; (b) the department of corrections; (c) the department of children, youth, and families; (d) the department of veterans affairs; and (e) the department of health.

(17) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(18) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It

must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(19) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(20) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(21) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(22) "Semi-secure facility" means any facility including, but not limited to, crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the facility administrator, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(23) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department of children, youth, and families with a ratio of at least one adult staff member to every two children.

(24) "Street outreach services" means a program that provides services and resources either directly or through referral to street youth and unaccompanied young adults as defined in RCW 43.330.702. Services including crisis intervention, emergency supplies, case management, and referrals may be provided through community-based outreach or drop-in centers.

(25) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(26) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

Sec. 3. RCW 43.185C.045 and 2021 c 214 s 3 are each amended to read as follows:

(1) By December 1st of each year, the department must provide an update on the state's homeless housing strategic plan and its activities for the prior fiscal year. The report must include, but not be limited to, the following information:

(a) An assessment of the current condition of homelessness in Washington state and the state's performance in meeting the goals in the state homeless housing strategic plan;

(b) A report on the results of the annual homeless point-in-time census conducted statewide under RCW 43.185C.030;

(c) The amount of federal, state, local, and private funds spent on homelessness assistance, categorized by funding source and the following major assistance types:

(i) Emergency shelter;

(ii) Homelessness prevention and rapid rehousing;

(iii) Permanent housing;

(iv) Permanent supportive housing;

(v) Transitional housing;

(vi) Services only; and

(vii) Any other activity in which more than five hundred thousand dollars of category funds were expended;

(d) A report on the expenditures, performance, and outcomes of state funds distributed through the consolidated homeless grant program, including the grant recipient, award amount expended, use of the funds, counties served, and households served;

(e) A report on state and local homelessness document recording fee expenditure by county, including the total amount of fee spending, percentage of total spending from fees, and number of people served by major assistance type((~~, and amount of expenditures for private rental housing payments required in RCW 36.22.179~~));

(f) A report on the expenditures, performance, and outcomes of the essential needs and housing support program meeting the requirements of RCW 43.185C.220;

(g) A report on the expenditures, performance, and outcomes of the independent youth housing program meeting the requirements of RCW 43.63A.311;

(h) A county-level report on the expenditures, performance, and outcomes of the eviction prevention rental assistance program under RCW 43.185C.185. The report must include, but is not limited to:

(i) The number of adults without minor children served in each county;

(ii) The number of households with adults and minor children served in each county; and

(iii) The number of unaccompanied youth and young adults who are being served in each county; and

(i) A county-level report on the expenditures, performance, and outcomes of the rapid rehousing, project-based vouchers, and housing acquisition programs under ((~~RCW 36.22.176~~)) section 1 of this act. The report must include, but is not limited to:

(i) The number of persons who are unsheltered receiving shelter through a project-based voucher in each county;

(ii) The number of units acquired or built via rapid rehousing and housing acquisition in each county; and

(iii) The number of adults without minor children, households with adults and minor children, unaccompanied youth, and young adults who are being

served by the programs under ((~~RCW 36.22.176~~)) section 1 of this act in each county.

(2) The report required in subsection (1) of this section must be posted to the department's website and may include links to updated or revised information contained in the report.

(3) Any local government receiving state funds for homelessness assistance or state or local homelessness document recording fees under ((~~RCW 36.22.178, 36.22.179, or 36.22.1791~~)) section 1 of this act must provide an annual report on the current condition of homelessness in its jurisdiction, its performance in meeting the goals in its local homeless housing plan, and any significant changes made to the plan. The annual report must be posted on the department's website. Along with each local government annual report, the department must produce and post information on the local government's homelessness spending from all sources by project during the prior state fiscal year in a format similar to the department's report under subsection (1)(c) of this section. If a local government fails to report or provides an inadequate or incomplete report, the department must take corrective action, which may include withholding state funding for homelessness assistance to the local government to enable the department to use such funds to contract with other public or nonprofit entities to provide homelessness assistance within the jurisdiction.

Sec. 4. RCW 43.185C.060 and 2021 c 334 s 980 and 2021 c 214 s 4 are each reenacted and amended to read as follows:

(1) The home security fund account is created in the state treasury, subject to appropriation. ((~~The state's portion of the surcharge established in RCW 36.22.179 and 36.22.1791 and 36.22.176 must be deposited in the account.~~)) Expenditures from the account may be used only for ((~~homeless housing~~)) programs as described in this chapter((~~, including the eviction prevention rental assistance program established in RCW 43.185C.185~~)).

(2)(a) By December 15, 2021, the department, in consultation with stakeholder groups specified in RCW 43.185C.185(2)(c), must create a set of performance metrics for each county receiving funding under ((~~RCW 36.22.176~~)) section 1(4)(b) of this act. The metrics must target actions within a county's control that will prevent and reduce homelessness, such as increasing the number of permanent supportive housing units and increasing or maintaining an adequate number of noncongregate shelter beds.

(b)(i) Beginning July 1, 2023, and by July 1st every two years thereafter, the department must award funds ((~~for project-based vouchers for nonprofit housing providers and related services, rapid rehousing, and housing acquisition under RCW 36.22.176~~)) under section 1(4)(b) of this act to eligible grantees in a manner that ((~~15~~)) 7 percent of funding is distributed as a performance-based allocation based on performance metrics created under (a) of this subsection, in addition to any base allocation of funding for the county.

(ii) Any county that demonstrates that it has met or exceeded the majority of the target actions to prevent and reduce homelessness over the previous two years must receive the remaining 15 percent performance-based allocation. Any county that fails to meet or exceed the majority of target actions to prevent and reduce homelessness must enter into a corrective action plan with the department. To receive its performance-based allocation, a county must agree to undertake the corrective actions outlined in the corrective action plan and any

reporting and monitoring deemed necessary by the department. Any county that fails to meet or exceed the majority of targets for two consecutive years after entering into a corrective action plan may be subject to a reduction in the performance-based portion of the funds received in (b)(i) of this subsection, at the discretion of the department in consultation with stakeholder groups specified in RCW 43.185C.185(2)(c). Performance-based allocations unspent due to lack of compliance with a corrective action plan created under this subsection (2)(b) may be distributed to other counties that have met or exceeded their target actions.

(3) The department must distinguish allotments from the account made to carry out the activities in RCW 43.330.167, 43.330.700 through 43.330.715, 43.330.911, 43.185C.010, and 43.185C.250 through 43.185C.320((~~, and 36.22.179(1)(b)~~)).

(4) ((~~The office of financial management must secure an independent expenditure review of state funds received under RCW 36.22.179(1)(b) on a biennial basis. The purpose of the review is to assess the consistency in achieving policy priorities within the private market rental housing segment for housing persons experiencing homelessness. The independent reviewer must notify the department and the office of financial management of its findings. The first biennial expenditure review, for the 2017-2019 fiscal biennium, is due February 1, 2020. Independent reviews conducted thereafter are due February 1st of each even-numbered year.~~

~~(5)~~)) During the 2019-2021 and 2021-2023 fiscal biennia, expenditures from the account may also be used for shelter capacity grants.

Sec. 5. RCW 43.185C.070 and 2005 c 484 s 11 are each amended to read as follows:

(1) During each calendar year in which moneys from the ((~~homeless housing~~)) home security fund account are available for use by the department for the homeless housing grant program, the department shall announce to all Washington counties, participating cities, and through major media throughout the state, a grant application period of at least ninety days' duration. This announcement will be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds, less appropriate administrative costs of the department as described in ((~~RCW 36.22.179~~)) section 1(4)(a) of this act.

(2) The department will develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, criteria to evaluate grant applications.

(3) The department may approve applications only if they are consistent with the local and state homeless housing program strategic plans. The department may give preference to applications based on some or all of the following criteria:

(a) The total homeless population in the applicant local government service area, as reported by the most recent annual Washington homeless census;

(b) Current local expenditures to provide housing for the homeless and to address the underlying causes of homelessness as described in RCW 43.185C.005;

(c) Local government and private contributions pledged to the program in the form of matching funds, property, infrastructure improvements, and other

contributions; and the degree of leveraging of other funds from local government or private sources for the program for which funds are being requested, to include recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Construction projects or rehabilitation that will serve homeless individuals or families for a period of at least twenty-five years;

(e) Projects which demonstrate serving homeless populations with the greatest needs, including projects that serve special needs populations;

(f) The degree to which the applicant project represents a collaboration between local governments, nonprofit community-based organizations, local and state agencies, and the private sector, especially through its integration with the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650;

(g) The cooperation of the local government in the annual Washington homeless census project;

(h) The commitment of the local government and any subcontracting local governments, nonprofit organizations, and for-profit entities to employ a diverse workforce;

(i) The extent, if any, that the local homeless population is disproportionate to the revenues collected under this chapter and ((~~RCW 36.22.178 and 36.22.179~~)) section 1 of this act; and

(j) Other elements shown by the applicant to be directly related to the goal and the department's state strategic plan.

Sec. 6. RCW 43.185C.080 and 2005 c 484 s 12 are each amended to read as follows:

(1) Only a local government is eligible to receive a homeless housing grant from the ((~~homeless housing~~)) home security fund account. Any city may assert responsibility for homeless housing within its borders if it so chooses, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate homeless housing program. The city shall then receive a percentage of the surcharge assessed under ((~~RCW 36.22.179~~)) section 1(2)(b) of this act equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing program grants. A city choosing to operate a separate homeless housing program shall be responsible for complying with all of the same requirements as counties and shall adopt a local homeless housing plan meeting the requirements of this chapter for county local plans. However, the city may by resolution of its legislative authority accept the county's homeless housing task force as its own and based on that task force's recommendations adopt a homeless housing plan specific to the city.

(2) Local governments applying for homeless housing funds may subcontract with any other local government, housing authority, community action agency or other nonprofit organization for the execution of programs contributing to the overall goal of ending homelessness within a defined service area. All subcontracts shall be consistent with the local homeless housing plan adopted by the legislative authority of the local government, time limited, and filed with the department and shall have specific performance terms. While a local government has the authority to subcontract with other entities, the local

government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

(3) A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If such a resolution is adopted, all of the funds otherwise due to the county under RCW 43.185C.060 shall be remitted monthly to the state treasurer for deposit in the ((~~homeless housing~~)) home security fund account, without any reduction by the county for collecting or administering the funds. Upon receipt of the resolution, the department shall promptly begin to identify and contract with one or more entities eligible under this section to create and execute a local homeless housing plan for the county meeting the requirements of this chapter. The department shall expend all of the funds received from the county under this subsection to carry out the purposes of chapter 484, Laws of 2005 in the county, provided that the department may retain six percent of these funds to offset the cost of managing the county's program.

(4) A resolution by the county declining to participate in the program shall have no effect on the ability of each city in the county to assert its right to manage its own program under this chapter, and the county shall monthly transmit to the city the funds due under this chapter.

Sec. 7. RCW 43.185C.185 and 2021 c 214 s 2 are each amended to read as follows:

(1) The eviction prevention rental assistance program is created in the department to prevent evictions by providing resources to households most likely to become homeless or suffer severe health consequences, or both, after an eviction, while promoting equity by prioritizing households, including communities of color, disproportionately impacted by public health emergencies and by homelessness and housing instability. The department must provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, including rental arrears and future rent if needed to stabilize the applicant's housing and prevent their eviction;

(b) Utility assistance for households if needed to prevent an eviction; and

(c) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Households eligible to receive assistance through the eviction prevention rental assistance program are those:

(a) With incomes at or below 80 percent of the county area median income;

(b) Who are families with children, living in doubled up situations, young adults, senior citizens, and others at risk of homelessness or significant physical or behavioral health complications from homelessness; and

(c) That meet any other eligibility requirements as established by the department after consultation with stakeholder groups, including persons at risk of homelessness due to unpaid rent, representatives of communities of color, homeless service providers, landlord representatives, local governments that administer homelessness assistance, a statewide association representing cities, a

statewide association representing counties, a representative of homeless youth and young adults, and affordable housing advocates.

(3) A landlord may assist an eligible household in applying for assistance through the eviction prevention rental assistance program or may apply for assistance on an eligible household's behalf.

(4)(a) Eligible grantees must actively work with organizations rooted in communities of color to assist and serve marginalized populations within their communities.

(b) At least 10 percent of the grant total must be subgranted to organizations that serve and are substantially governed by marginalized populations to pay the costs associated with program outreach, assistance completing applications for assistance, rent assistance payments, activities that directly support the goal of improving access to rent assistance for people of color, and related costs. Upon request by an eligible grantee or the county or city in which it exists, the department must provide a list of organizations that serve and are substantially governed by marginalized populations, if known.

(c) An eligible grantee may request an exemption from the department from the requirements under (b) of this subsection. The department must consult with the stakeholder group established under subsection (2)(c) of this section before granting an exemption. An eligible grantee may request an exemption only if the eligible grantee:

(i) Is unable to subgrant with an organization that serves and is substantially governed by marginalized populations; or

(ii) Provides the department with a plan to spend 10 percent of the grant total in a manner that the department determines will improve racial equity for historically underserved communities more effectively than a subgrant.

(5) The department must ensure equity by developing performance measures and benchmarks that promote both equitable program access and equitable program outcomes. Performance measures and benchmarks must be developed by the department in consultation with stakeholder groups, including persons at risk of homelessness due to unpaid rent, representatives of communities of color, homeless service providers, landlord representatives, local governments that administer homelessness assistance, a statewide association representing cities, a statewide association representing counties, a representative of homeless youth and young adults, and affordable housing advocates. Performance measures and benchmarks must also ensure that the race and ethnicity of households served under the program are proportional to the numbers of people at risk of homelessness in each county for each of the following groups:

(a) Black or African American;

(b) American Indian and Alaska Native;

(c) Native Hawaiian or other Pacific Islander;

(d) Hispanic or Latinx;

(e) Asian;

(f) Other multiracial.

(6) The department may develop additional rules, requirements, procedures, and guidelines as necessary to implement and operate the eviction prevention rental assistance program.

(7)(a) The department must award funds under this section to eligible grantees in a manner that is proportional to the amount of revenue collected under ((~~RCW 36.22.176~~)) section 1 of this act from the county being served by the grantee.

(b) The department must provide counties with the right of first refusal to receive grant funds distributed under this subsection. If a county refuses the funds or does not respond within a time frame established by the department, the department must identify an alternative grantee. The alternative grantee must distribute the funds in a manner that is in compliance with this chapter.

Sec. 8. RCW 43.185C.190 and 2021 c 334 s 981 and 2021 c 214 s 5 are each reenacted and amended to read as follows:

The affordable housing for all account is created in the state treasury, subject to appropriation. ((~~The state's portion of the surcharges established in RCW 36.22.178 and 36.22.176 shall be deposited in the account.~~)) Expenditures from the account may only be used for ((~~affordable housing programs, including operations, maintenance, and services as described in RCW 36.22.176(1)(a)~~)) allowable uses as described in section 1(5) of this act. During the 2021-2023 fiscal biennium, expenditures from the account may be used for operations, maintenance, and services for permanent supportive housing as defined in RCW 36.70A.030. It is the intent of the legislature to continue this policy in future biennia.

Sec. 9. RCW 36.18.010 and 2022 c 141 s 2 are each amended to read as follows:

Except as otherwise ordered by the court pursuant to RCW 4.24.130, county auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, five dollars; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, three dollars; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, one dollar;

(3) For preparing noncertified copies, for each page eight and one-half by ((~~fourteen~~)) 14 inches or less, one dollar;

(4) For administering an oath or taking an affidavit, with or without seal, two dollars;

(5) For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund

plus an additional ten dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, eight dollars;

(7) For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, five dollars; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, one dollar;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, ((~~fifty dollars~~)) $50, in addition to all other applicable recording fees;

(11) For recording instruments, a three dollar surcharge to be deposited into the Washington state library operations account created in RCW 43.07.129;

(12) For recording instruments, a two dollar surcharge to be deposited into the Washington state library-archives building account created in RCW 43.07.410 until the financing contract entered into by the secretary of state for the Washington state library-archives building is paid in full;

(13) ((~~For recording instruments, a surcharge as provided in RCW 36.22.178; and~~

~~(14)~~)) For recording instruments, ((~~except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a~~)) the surcharge as provided in ((~~RCW 36.22.179~~)) section 1 of this act.

Sec. 10. RCW 59.18.030 and 2021 c 212 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Active duty" means service authorized by the president of the United States, the secretary of defense, or the governor for a period of more than 30 consecutive days.

(2) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of chapter 5.50 RCW by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(3) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(4) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past 30 days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(5) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(6) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(7) "Distressed home" has the same meaning as in RCW 61.34.020.

(8) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(9) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(10) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(11) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(12) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(13) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(14) "Immediate family" includes state registered domestic partner, spouse, parents, grandparents, children, including foster children, siblings, and in-laws.

(15) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least 30 days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(16) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(17) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(18) "Orders" means written official military orders, or any written notification, certification, or verification from the service member's commanding officer, with respect to the service member's current or future military status.

(19) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(20) "Permanent change of station" means: (a) Transfer to a unit located at another port or duty station; (b) change in a unit's home port or permanent duty station; (c) call to active duty for a period not less than 90 days; (d) separation; or (e) retirement.

(21) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(22) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(23) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(24) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(25) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(26) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(27) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(28) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(29) "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. Except as provided in RCW 59.18.283(3), these terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees.

(30) "Rental agreement" or "lease" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(31) "Service member" means an active member of the United States armed forces, a member of a military reserve component, or a member of the national guard who is either stationed in or a resident of Washington state.

(32) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(33) "Subsidized housing" refers to rental housing for very low-income or low-income households that is a dwelling unit operated directly by a public housing authority or its affiliate, or that is insured, financed, or assisted in whole or in part through one of the following sources:

(a) A federal program or state housing program administered by the department of commerce or the Washington state housing finance commission;

(b) A federal housing program administered by a city or county government;

(c) An affordable housing levy authorized under RCW 84.52.105; or

(d) The surcharges authorized in ((~~RCW 36.22.178 and 36.22.179~~)) section 1 of this act and any of the surcharges authorized in chapter 43.185C RCW.

(34) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(35) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

(36) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(37) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

(38) "Transitional housing" means housing units owned, operated, or managed by a nonprofit organization or governmental entity in which supportive services are provided to individuals and families that were formerly homeless, with the intent to stabilize them and move them to permanent housing within a period of not more than twenty-four months, or longer if the program is limited to tenants within a specified age range or the program is intended for tenants in need of time to complete and transition from educational or training or service programs.

Sec. 11. RCW 84.36.560 and 2020 c 273 s 1 are each amended to read as follows:

(1) The real and personal property owned or used by a nonprofit entity in providing rental housing for qualifying households or used to provide space for the placement of a mobile home for a qualifying household within a mobile home park is exempt from taxation if:

(a) The benefit of the exemption inures to the nonprofit entity;

(b) At least seventy-five percent of the occupied dwelling units in the rental housing or lots in a mobile home park are occupied by a qualifying household; and

(c) The rental housing or lots in a mobile home park were insured, financed, or assisted in whole or in part through one or more of the following sources:

(i) A federal or state housing program administered by the department of commerce;

(ii) A federal housing program administered by a city or county government;

(iii) An affordable housing levy authorized under RCW 84.52.105;

(iv) The surcharges authorized by ((~~RCW 36.22.178 and 36.22.179~~)) section 1 of this act and any of the surcharges authorized in chapter 43.185C RCW; or

(v) The Washington state housing finance commission, provided that the financing is for a mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030, or a nonprofit entity.

(2) If less than seventy-five percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by qualifying households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption of the housing's or park's personal property as follows:

(a) A partial exemption is allowed for each dwelling unit in the rental housing or for each lot in a mobile home park occupied by a qualifying household.

(b) The amount of exemption must be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The numerator of the fraction is the number of dwelling units or lots occupied by qualifying households as of December 31st of the first assessment year in which the rental housing or mobile home park becomes operational or on January 1st of each subsequent assessment year for which the exemption is claimed. The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year the rental housing or mobile home park becomes operational and January 1st of each subsequent assessment year for which exemption is claimed.

(3) If a currently exempt rental housing unit or mobile home lot in a mobile home park was occupied by a qualifying household at the time the exemption was granted and the income of the household subsequently rises above the threshold set in subsection (7)(e) of this section but remains at or below eighty percent of the median income, the exemption will continue as long as the housing continues to meet the certification requirements listed in subsection (1) of this section. For purposes of this section, median income, as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located, shall be adjusted for family size. However, if a dwelling unit or a lot becomes vacant and is subsequently rerented, the income of the new household must be at or below the threshold set in subsection (7)(e) of this section to remain exempt from property tax.

(4) If at the time of initial application the property is unoccupied, or subsequent to the initial application the property is unoccupied because of renovations, and the property is not currently being used for the exempt purpose authorized by this section but will be used for the exempt purpose within two assessment years, the property shall be eligible for a property tax exemption for the assessment year in which the claim for exemption is submitted under the following conditions:

(a) A commitment for financing to acquire, construct, renovate, or otherwise convert the property to provide housing for qualifying households has been obtained, in whole or in part, by the nonprofit entity claiming the exemption from one or more of the sources listed in subsection (1)(c) of this section;

(b) The nonprofit entity has manifested its intent in writing to construct, remodel, or otherwise convert the property to housing for qualifying households; and

(c) Only the portion of property that will be used to provide housing or lots for qualifying households shall be exempt under this section.

(5) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(6) The nonprofit entity qualifying for a property tax exemption under this section may agree to make payments to the city, county, or other political subdivision for improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the rental housing. However, these payments shall not exceed the amount last levied as the annual tax of the city, county, or political subdivision upon the property prior to exemption.

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

(a) "Group home" means a single-family dwelling financed, in whole or in part, by one or more of the sources listed in subsection (1)(c) of this section. The residents of a group home shall not be considered to jointly constitute a household, but each resident shall be considered to be a separate household occupying a separate dwelling unit. The individual incomes of the residents shall not be aggregated for purposes of this exemption;

(b) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;

(c) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted. If the housing facility is comprised of three or fewer dwelling units and there are any unoccupied units on January 1st, the department shall base the amount of the exemption upon the number of occupied dwelling units as of December 31st of the first assessment year the rental housing becomes operational and on May 1st of each subsequent assessment year in which the claim for exemption is submitted;

(d) "Rental housing" means a residential housing facility or group home that is occupied but not owned by qualifying households;

(e)(i) "Qualifying household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located and in effect as of January 1st of the year the application for exemption is submitted;

(ii) Beginning July 1, 2021, "qualifying household" means a single person, family, or unrelated persons living together whose income is at or below sixty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located and in effect as of January 1st of the year the application for exemption is submitted; and

(f) "Nonprofit entity" means a:

(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code;

(ii) Limited partnership where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a general partner;

(iii) Limited liability company where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a managing member; or

(iv) Mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030.

Sec. 12. RCW 84.36.675 and 2022 c 93 s 2 are each amended to read as follows:

(1) The real property owned by a limited equity cooperative that provides owned housing for low-income households is exempt from property taxation if:

(a) The benefit of the exemption inures to the limited equity cooperative and its members;

(b) At least 85 percent of the occupied dwelling units in the limited equity cooperative is occupied by members of the limited equity cooperative determined as of January 1st of each assessment year for which the exemption is claimed;

(c) At least 95 percent of the property for which the exemption is sought is used for dwelling units or other noncommercial uses available for use by the members of the limited equity cooperative; and

(d) The housing was insured, financed, or assisted, in whole or in part, through one or more of the following sources:

(i) A federal or state housing program administered by the department of commerce;

(ii) A federal or state housing program administered by the federal department of housing and urban development;

(iii) A federal housing program administered by a city or county government;

(iv) An affordable housing levy authorized under RCW 84.52.105;

(v) The surcharges authorized by ((~~RCW 36.22.178 and 36.22.179~~)) section 1 of this act and any of the surcharges authorized in chapter 43.185C RCW; or

(vi) The Washington state housing finance commission.

(2) If less than 100 percent of the dwelling units within the limited equity cooperative is occupied by low-income households, the limited equity cooperative is eligible for a partial exemption on the real property. The amount of exemption must be calculated by multiplying the assessed value of the property owned by the limited equity cooperative by a fraction. The numerator of the fraction is the number of dwelling units occupied by low-income households as of January 1st of each assessment year for which the exemption is

claimed, and the denominator of the fraction is the total number of dwelling units as of such date.

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

(a) "Cooperative" has the meaning provided in RCW 64.90.010.

(b)(i) "Limited equity cooperative" means a cooperative subject to the Washington uniform common interest ownership act under chapter 64.90 RCW that owns the real property for which an exemption is sought under this section and for which, following the completion of the development or redevelopment of such real property:

(A) Members are prevented from selling their ownership interests other than to a median-income household; and

(B) Members are prevented from selling their ownership interests for a sales price that exceeds the sum of:

(I) The sales price they paid for their ownership interest;

(II) The cost of permanent improvements they made to the dwelling unit during their ownership;

(III) Any special assessments they paid to the limited equity cooperative during their ownership to the extent utilized to make permanent improvements to the building or buildings in which the dwelling units are located; and

(IV) A three percent annual noncompounded return on the above amounts.

(ii) For the purposes of this subsection (3)(b), "sales price" is the total consideration paid or contracted to be paid to the seller or to another for the seller's benefit.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is at or below 80 percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the housing is located and in effect as of January 1st of the year in which the determination is to be made as to whether the single person, family, or unrelated persons living together qualify as a low-income household.

(d) "Median-income household" means a single person, family, or unrelated persons living together whose income is at or below 100 percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the housing is located and in effect as of January 1st of the year in which the determination is to be made as to whether the single person, family, or unrelated persons living together qualify as a median-income household.

(e) "Members" of a limited equity cooperative means individuals or entities that have an ownership interest in the limited equity cooperative that entitles them to occupy and sell a dwelling unit in the limited equity cooperative.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

(1) RCW 36.22.176 (Recorded document surcharge—Use) and 2022 c 216 s 7 & 2021 c 214 s 1;

(2) RCW 36.22.178 (Affordable housing for all surcharge—Permissible uses) and 2021 c 214 s 7, 2019 c 136 s 1, 2018 c 66 s 5, 2011 c 110 s 1, 2007 c 427 s 1, 2005 c 484 s 18, & 2002 c 294 s 2;

(3) RCW 36.22.179 (Surcharge for local homeless housing and assistance—Use) and 2021 c 214 s 8, 2019 c 136 s 2, 2018 c 85 s 2, 2017 3rd sp.s. c 16 s 5, 2014 c 200 s 1, 2012 c 90 s 1, 2011 c 110 s 2, 2009 c 462 s 1, 2007 c 427 s 4, & 2005 c 484 s 9;

(4) RCW 36.22.1791 (Additional surcharge for local homeless housing and assistance—Use) and 2021 c 214 s 9, 2019 c 136 s 3, 2011 c 110 s 3, & 2007 c 427 s 5;

(5) RCW 43.185C.061 (Home security fund account—Exemptions from set aside) and 2015 c 69 s 27; and

(6) RCW 43.185C.215 (Transitional housing operating and rent account) and 2008 c 256 s 2.

NEW SECTION. **Sec. 14.** Section 12 of this act expires January 1, 2033.

Passed by the Senate April 17, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 278

[Senate Bill 5392]

COURTS—OVERPAYMENTS OF LESS THAN TEN DOLLARS

AN ACT Relating to overpayments for certain matters; and amending RCW 63.30.270.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 63.30.270 and 2022 c 225 s 406 are each amended to read as follows:

(1) A local government holding abandoned intangible property that is not forwarded to the department of revenue in subsection (2) of this section is not required to maintain current records of this property for longer than five years after the property is presumed abandoned, and at that time may archive records of this intangible property and transfer the intangible property to its general fund. However, the local government remains liable to pay the intangible property to a person or entity subsequently establishing its ownership of this intangible property.

(2) Counties, cities, towns, and other municipal and quasi-municipal corporations that hold funds representing warrants canceled pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, and property tax overpayments or refunds may retain the funds until the owner notifies them and establishes ownership as provided in this chapter. Counties, cities, towns, or other municipal and quasi-municipal corporations must provide to the administrator a report of property it is holding pursuant to this section. The report must identify the property and owner in the manner provided in this section and RCW 63.30.220 through 63.30.260 and the administrator must publish the information as provided in RCW 63.30.300.

(3) Courts may retain overpayments made in connection with any litigation, including traffic, criminal, and noncriminal matters, for amounts less than or equal to $10. These overpayments shall be remitted by the clerk of the court to the local treasurer for deposit in the local current expense fund.

Passed by the Senate February 22, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 279

[Substitute Senate Bill 5448]

ALCOHOL DELIVERY AND TAKEOUT—EXTENSION

AN ACT Relating to liquor licensee privileges for the delivery of alcohol; amending RCW 66.20.320 and 66.24.660; amending 2021 c 48 s 2 (uncodified); reenacting and amending RCW 66.04.010 and 66.20.310; adding a new section to chapter 66.24 RCW; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. 2021 c 48 s 2 (uncodified) is amended to read as follows:

(1) ((~~The board must implement the provisions of this section as expeditiously as possible. Liquor licensees may conduct activities authorized under this section before completion by the board of actions the board plans to take in order to implement this act, such as adoption of rules or completion of information system changes necessary to allow licensees to apply for required endorsements. However, licensees must comply with board rules when they take effect.~~

~~(2) The~~)) (a) Except as provided in (b) of this subsection, the following licensees may sell alcohol products at retail for ((~~curbside and~~)) takeout ((~~service~~)) or delivery or both under liquor and cannabis board licenses and endorsements: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; nonprofit arts licensees; and caterers.

(b) No alcohol products may be sold by delivery under this section after July 1, 2025.

(((~~(3)~~))) (2) Spirits, beer, and wine restaurant licensees may sell premixed cocktails ((~~and cocktail kits~~)) for takeout ((~~or curbside service~~)) and, until July 1, 2025, for delivery. The board may establish by rule the manner in which premixed cocktails for off-premises consumption must be provided. This subsection does not authorize the sale of ((~~full~~)) bottles of spirits by licensees for off-premises consumption((~~, with the exception of mini-bottles as part of cocktail kits. Mini-bottle sales authorized under this subsection as part of cocktail kits are exempt from the spirits license issuance fee under RCW 66.24.630(4)(a) and the tax on each retail sale of spirits under RCW 82.08.150~~)).

(((~~(4)~~))) (3) Spirits, beer, and wine restaurant licensees may sell wine by the glass or premixed wine and spirits cocktails for takeout ((~~or curbside service~~)) and ((~~for~~)), until July 1, 2025, delivery. Beer and wine restaurant licensees may sell wine or premixed wine drinks by the glass for takeout ((~~or curbside service~~)) and ((~~for~~)), until July 1, 2025, delivery. The board may establish by rule the manner in which wine by the glass and premixed cocktails for off-premises consumption must be provided.

(((~~(5)~~))) (4) Licensees that were authorized by statute or rule before January 1, 2020, to sell growlers for on-premises consumption may sell growlers for off-premises consumption through ((~~curbside,~~)) takeout((~~,~~)) or, until July 1, 2025,

delivery ((~~service~~)). Sale of growlers under this subsection must meet federal alcohol and tobacco tax and trade bureau requirements.

(((~~(6)~~))) (5)(a) Licensees must obtain from the board an endorsement to their license in order to conduct activities authorized under subsections (((~~(2)~~))) (1) through (((~~(5)~~))) (4) of this section. The board may adopt rules governing the manner in which the activities authorized under this section must be conducted. Licensees must not be charged a fee in order to obtain an endorsement required under this section.

(b)(i) Alcohol delivery under this section must be performed by an employee of an alcohol delivery endorsement holder who is 21 years of age or older and possesses a class 12 permit, in accordance with RCW 66.20.310.

(ii) Delivery services conducted by beer and wine restaurant licensees and spirits, beer, and wine restaurant licensees under this section must be accompanied by a purchased meal prepared and sold by the license holder.

(c) Alcohol sold for takeout by beer and wine restaurant licensees and spirits, beer, and wine restaurant licensees under this section must be accompanied by a purchased meal prepared and sold by the license holder.

(d) Any alcohol product sold for takeout or delivery under this section must be in a factory sealed container or a tamper-resistant container.

(((~~(7)~~))) (6) Beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries may sell prefilled growlers for off-premises consumption through takeout ((~~or curbside service~~)) and, until July 1, 2025, delivery, provided that prefilled growlers are sold the same day they are prepared for sale and not stored overnight for sale on future days.

(((~~(8)~~))) (7) The board must adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees holding licenses issued by the board for the following license types: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; and private clubs licensed under RCW 66.24.450 and 66.24.452. The board may adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers.

(((~~(9)~~))) (8) Upon delivery of any alcohol product authorized to be delivered under this section, the signature of the person age 21 or over receiving the delivery must be obtained.

(((~~(10)~~))) (9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Board" means the liquor and cannabis board.

(b) "Growlers" means sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale.

(((~~(c) "Mini-bottles" means original factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.~~

~~(11) This section expires July 1, 2023.~~))

Sec. 2. RCW 66.04.010 and 2019 c 61 s 1 are each reenacted and amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all

dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced by a brewery or winery in the United States outside of the state of Washington; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Board" means the liquor and cannabis board, constituted under this title.

(7) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic, or social purposes, and not for pecuniary gain.

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Craft distillery" means a distillery that pays the reduced licensing fee under RCW 66.24.140.

(13) "Delivery" means the transportation of alcohol to an individual located within Washington state from a licensed location holding an alcohol delivery endorsement as part of a delivery order. "Delivery" does not include services provided by common carriers.

(14) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his or her profession within the state pursuant to chapter 18.32 RCW.

((~~(14)~~)) (15) "Distiller" means a person engaged in the business of distilling spirits.

((~~(15)~~)) (16) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

((~~(16)~~)) (17) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

((~~(17)~~)) (18) "Drug store" means a place whose principal business is, the sale of drugs, medicines, and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

((~~(18)~~)) (19) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

((~~(19)~~)) (20) "Employee" means any person employed by the board.

((~~(20)~~)) (21) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

((~~(21)~~)) (22) "Fund" means 'liquor revolving fund.'

((~~(22)~~)) (23) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests. The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

((~~(23)~~)) (24) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

((~~(24)~~)) (25) "Imprisonment" means confinement in the county jail.

((~~(25)~~)) (26) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine, or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other

substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(((~~(26)~~))) (27) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(((~~(27)~~))) (28) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(((~~(28)~~))) (29) "Nightclub" means an establishment that provides entertainment and has as its primary source of revenue (a) the sale of alcohol for consumption on the premises, (b) cover charges, or (c) both.

(((~~(29)~~))) (30) "Package" means any container or receptacle used for holding liquor.

(((~~(30)~~))) (31) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(((~~(31)~~))) (32) "Permit" means a permit for the purchase of liquor under this title.

(((~~(32)~~))) (33) "Person" means an individual, copartnership, association, or corporation.

(((~~(33)~~))) (34) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his or her profession within the state pursuant to chapter 18.71 RCW.

(((~~(34)~~))) (35) "Powdered alcohol" means any powder or crystalline substance containing alcohol that is produced for direct use or reconstitution.

(((~~(35)~~))) (36) "Prescription" means a memorandum signed by a physician and given by him or her to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(((~~(36)~~))) (37) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(((~~(37)~~))) (38) "Regulations" means regulations made by the board under the powers conferred by this title.

(((~~(38)~~))) (39) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without

lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(((~~(39)~~))) (40) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his or her agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(((~~(40)~~))) (41) "Service bar" means a fixed or portable table, counter, cart, or similar workstation primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

(((~~(41)~~))) (42) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(((~~(42)~~))) (43) "Soju" means a traditional Korean distilled alcoholic beverage, produced using authentic Korean recipes and production methods, and derived from agricultural products, that contains not more than twenty-four percent of alcohol by volume.

(((~~(43)~~))) (44) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

(((~~(44)~~))) (45) "Store" means a state liquor store established under this title.

(((~~(45)~~))) (46) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(((~~(46)~~))) (47) "VIP airport lounge" means an establishment within an international airport located beyond security checkpoints that provides a special space to sit, relax, read, work, and enjoy beverages where access is controlled by the VIP airport lounge operator and is generally limited to the following classifications of persons:

(a) Airline passengers of any age whose admission is based on a first-class, executive, or business class ticket;

(b) Airline passengers of any age who are qualified members or allowed guests of certain frequent flyer or other loyalty incentive programs maintained by airlines that have agreements describing the conditions for access to the VIP airport lounge;

(c) Airline passengers of any age who are qualified members or allowed guests of certain enhanced amenities programs maintained by companies that have agreements describing the conditions for access to the VIP airport lounge;

(d) Airport and airline employees, government officials, foreign dignitaries, and other attendees of functions held by the airport authority or airlines related to the promotion of business objectives such as increasing international air traffic and enhancing foreign trade where access to the VIP airport lounge will be controlled by the VIP airport lounge operator; and

(e) Airline passengers of any age or airline employees whose admission is based on a pass issued or permission given by the airline for access to the VIP airport lounge.

(((~~(47)~~))) (48) "VIP airport lounge operator" means an airline, port district, or other entity operating a VIP airport lounge that: Is accountable for compliance with the alcohol beverage control act under this title; holds the license under chapter 66.24 RCW issued to the VIP airport lounge; and provides a point of contact for addressing any licensing and enforcement by the board.

(((~~(48)~~))) (49)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

(((~~(49)~~))) (50) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

(((~~(50)~~))) (51) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

(((~~(51)~~))) (52) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

Sec. 3. RCW 66.20.310 and 2019 c 64 s 21 are each reenacted and amended to read as follows:

(1)(a) There is an alcohol server permit, known as a class 12 permit, for ((~~a~~)):

(i) A manager ((~~or bartender~~));

(ii) A bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility; or

(iii) An employee conducting alcohol deliveries for a licensee that delivers alcohol under section 1 of this act (as codified under section 7 of this act).

(b) There is an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective January 1, 1997, except as provided in (d) of this subsection, every alcohol server employed, under contract or otherwise, at a retail licensed premise must be issued a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued must be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder must present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit is valid for employment at any retail licensed premises described in (a) of this subsection.

(c) Except as provided in (d) of this subsection, no licensee holding a license as authorized by this section and RCW 66.20.300, 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.690, 66.24.450, 66.24.570, 66.24.600, 66.24.610, 66.24.650, 66.24.655, and 66.24.680 may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor must have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(f) Every person whose duties include the delivery of alcohol authorized under section 1 of this act (as codified under section 7 of this act) must have a class 12 permit before engaging in alcohol delivery. A delivery employee whose duties include the delivery of alcohol authorized under section 1 of this act (as codified under section 7 of this act) must complete an approved class 12 permit course that includes a curriculum component that covers best practices for delivery of alcohol.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or

(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Grocery stores licensed under RCW 66.24.360, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine for on-premises consumption with food is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350, except for employees whose duties include serving during tasting activities under RCW 66.24.363.

Sec. 4. RCW 66.20.320 and 1996 c 311 s 2 are each amended to read as follows:

(1) The board shall regulate a required alcohol server education program that includes:

(a) Development of the curriculum and materials for the education program;

(b) Examination and examination procedures;

(c) Certification procedures, enforcement policies, and penalties for education program instructors and providers; and

(d) The curriculum for an approved class 12 alcohol permit training program that includes but is not limited to the following subjects:

(i) The physiological effects of alcohol including the effects of alcohol in combination with drugs;

(ii) Liability and legal information;

(iii) Driving while intoxicated;

(iv) Intervention with the problem customer, including ways to stop service, ways to deal with the belligerent customer, and alternative means of transportation to get the customer safely home;

(v) Methods for checking proper identification of customers;

(vi) Nationally recognized programs, such as TAM (Techniques in Alcohol Management) and TIPS (Training for Intervention Programs) modified to include Washington laws and ((~~regulations~~)) rules; and

(vii) Best practices for delivery of alcohol for a course approved for a person whose duties include the delivery of alcohol authorized under section 1 of this act (as codified under section 7 of this act).

(2) The board shall provide the program through liquor licensee associations, independent contractors, private persons, private or public schools certified by the board, or any combination of such providers.

(3) Each training entity shall provide a class 12 permit to the manager ((~~or~~)), bartender, or delivery employee who has successfully completed a course the board has certified. A list of the individuals receiving the class 12 permit shall be forwarded to the board on the completion of each course given by the training entity.

(4) After January 1, 1997, the board shall require all alcohol servers applying for a class 13 alcohol server permit to view a video training session.

Retail liquor licensees shall fully compensate employees for the time spent participating in this training session.

(5) When requested by a retail liquor licensee, the board shall provide copies of videotaped training programs that have been produced by private vendors and make them available for a nominal fee to cover the cost of purchasing and shipment, with the fees being deposited in the liquor revolving fund for distribution to the board as needed.

(6) Each training entity may provide the board with a video program of not less than one hour that covers the subjects in subsection (1)(d)(i) through (v) of this section that will be made available to a licensee for the training of a class 13 alcohol server.

(7) Applicants shall be given a class 13 permit upon the successful completion of the program.

(8) A list of the individuals receiving the class 13 permit shall be forwarded to the board on the completion of each video training program.

(9) The board shall develop a model permit for the class 12 and 13 permits. The board may provide such permits to training entities or licensees for a nominal cost to cover production.

(10)(a) Persons who have completed a nationally recognized alcohol management or intervention program since July 1, 1993, may be issued a class 12 or 13 permit upon providing proof of completion of such training to the board.

(b) Persons who completed the board's alcohol server training program after July 1, 1993, but before July 1, 1995, may be issued a class 13 permit upon providing proof of completion of such training to the board.

Sec. 5. RCW 66.24.660 and 2013 c 89 s 1 are each amended to read as follows:

Retailers may sell liquor as defined in RCW 66.04.010((~~(25)~~)) through self-checkout registers if that register is programmed to halt that transaction during the purchase of liquor until an employee of the retailer intervenes and verifies the age of the purchaser by reviewing established forms of acceptable identification. Once age is successfully verified, the employee can release the transaction for payment. If the purchaser cannot provide acceptable forms of identification to verify age, the employee must refuse the purchase and void the transaction.

NEW SECTION. **Sec. 6.** By November 1, 2023, the liquor and cannabis board shall submit recommendations to the governor and appropriate committees of the legislature for a comprehensive alcohol delivery policy. The recommendations in the report must include a consistent, equitable structure for alcohol delivery licenses, endorsements, permits, and fees, and a comprehensive plan to help ensure all deliveries of alcohol are made only to persons who are 21 years of age or older.

NEW SECTION. **Sec. 7.** Section 1 of this act is codified as a new section in chapter 66.24 RCW.

NEW SECTION. **Sec. 8.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the Senate April 18, 2023.

Passed by the House April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 280

[Senate Bill 5457]

GROWTH MANAGEMENT ACT COMPREHENSIVE PLANS—SMALL CITIES

AN ACT Relating to implementing growth management task force legislative recommendations regarding small cities; and reenacting and amending RCW 36.70A.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70A.130 and 2022 c 287 s 1 and 2022 c 192 s 1 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b)(i) A city or town located within county planning under RCW 36.70A.040 may opt out of a full review and revisions of its comprehensive plan established in this section if the city or town meets the following criteria:

(A) Has a population fewer than 500;

(B) Is not located within 10 miles of a city with a population over 100,000;

(C) Experienced a population growth rate of fewer than 10 percent in the preceding 10 years; and

(D) Has provided the department with notice of its intent to participate in a partial review and revision of its comprehensive plan.

(ii) The department shall review the population growth rate for a city or town participating in the partial review and revision of its comprehensive plan process at least three years before the periodic update is due as outlined in subsection (4) of this section and notify cities of their eligibility.

(iii) A city or town that opts out of a full review and revision of its comprehensive plan must update its critical areas regulations and its capital facilities element and its transportation element.

((~~(b)~~)) (c) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

((~~(c)~~)) (d) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a

city or county from the most recent ten-year population forecast by the office of financial management.

((~~(d)~~)) (e) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the ((~~one hundred~~)) 100 year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within

its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding ((~~twenty~~)) 20-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance;

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas;

(iv) The areas added to the urban growth areas are suitable for urban growth;

(v) The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vi) The urban growth area is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor;

(vii) The areas removed from the urban growth area do not include urban growth or urban densities; and

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands.

(4) Except as otherwise provided in subsections (6) and (8) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 31, 2024, with the following review and, if needed, revision on or before June 30, 2034, and then every ((~~ten~~)) 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2025, and every ((~~ten~~)) 10 years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every ((~~ten~~)) 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every ((~~ten~~)) 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the ((~~twenty-four~~)) 24 months following the deadline established in subsection (5) of this section: The county has a population of less than ((~~fifty thousand~~)) 50,000 and has had its population increase by no more than ((~~seventeen~~)) 17 percent in the ((~~ten~~)) 10 years preceding the deadline established in subsection (5) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the ((~~twenty-four~~)) 24 months following the deadline established in subsection (5) of this section: The city has a population of no more than ((~~five thousand~~)) 5,000 and has had its population increase by the greater of either no more than ((~~one hundred~~)) 100 persons or no more than ((~~seventeen~~)) 17 percent in the ((~~ten~~)) 10 years preceding the deadline established in subsection (5) of this section as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than ((~~twelve~~)) 12 months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ((~~ten~~)) 10 years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

(9)(a) Counties subject to planning deadlines established in subsection (5) of this section that are required or that choose to plan under RCW 36.70A.040 and that meet either criteria of (a)(i) or (ii) of this subsection, and cities with a population of more than 6,000 as of April 1, 2021, within those counties, must provide to the department an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. Once a county meets the criteria in (a)(i) or (ii) of this subsection, the implementation progress

report requirements remain in effect thereafter for that county and the cities therein with populations greater than 6,000 as of April 1, 2021, even if the county later no longer meets either or both criteria. A county is subject to the implementation progress report requirement if it meets either of the following criteria on or after April 1, 2021:

(i) The county has a population density of at least 100 people per square mile and a population of at least 200,000; or

(ii) The county has a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent as determined by the office of financial management.

(b) The department shall adopt guidelines for indicators, measures, milestones, and criteria for use by counties and cities in the implementation progress report that must cover:

(i) The implementation of previously adopted changes to the housing element and any effect those changes have had on housing affordability and availability within the jurisdiction;

(ii) Permit processing timelines; and

(iii) Progress toward implementing any actions required to achieve reductions to meet greenhouse gas and vehicle miles traveled requirements as provided for in any element of the comprehensive plan under RCW 36.70A.070.

(c) If a city or county required to provide an implementation progress report under this subsection (9) has not implemented any specifically identified regulations, zoning and land use changes, or taken other legislative or administrative action necessary to implement any changes in the most recent periodic update in their comprehensive plan by the due date for the implementation progress report, the city or county must identify the need for such action in the implementation progress report. Cities and counties must adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

Passed by the Senate March 1, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 281

[Senate Bill 5531]

MILK PRODUCT HAULERS—SPECIAL HIGHWAY USE PERMIT

AN ACT Relating to special use permits for milk product haulers; and amending RCW 46.44.0941.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.44.0941 and 2010 c 161 s 1117 are each amended to read as follows:

The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All

funds collected, except the amount retained by authorized agents of the department as provided in RCW 46.44.096, shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip . . . . . $ 10.00

Continuous operation of overlegal loads having either overwidth or overheight features only, for a period not to exceed ((~~thirty~~)) 30 days . . . . . $ 20.00

Continuous operations of overlegal loads having overlength features only, for a period not to exceed ((~~thirty~~)) 30 days. . . . . $ 10.00

Continuous operation of a combination of vehicles having one trailing unit that exceeds ((~~fifty-three~~)) 53 feet and is not more than ((~~fifty-six~~)) 56 feet in length, for a period of one year . . . . . $ 100.00

Continuous operation of a combination of vehicles having two trailing units which together exceed ((~~sixty-one~~)) 61 feet and are not more than ((~~sixty-eight~~)) 68 feet in length, for a period of one year . . . . . $ 100.00

Continuous operation of a combination of vehicles having two trailing units hauling fluid/liquid nondivisible milk, which together exceed 61 feet and are not more than 85 feet in length, for a period of one year . . . . . $ 300.00

Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight, for a period not to exceed ((~~thirty~~)) 30 days . . . . . $ 70.00

Continuous operation of a four-axle fixed load vehicle meeting the requirements of RCW 46.44.091(1) and weighing less than 86,000 pounds gross weight, not to exceed ((~~thirty~~)) 30 days . . . . . $ 90.00

Continuous movement of a mobile home or manufactured home having nonreducible features not to exceed ((~~eighty-five~~)) 85 feet in total length and ((~~fourteen~~)) 14 feet in width, for a period of one year . . . . . $ 150.00

Continuous operation of a class C tow truck or a class E tow truck with a class C rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of

one year . . . . . $ 150.00

Continuous operation of a class B tow truck or a class E tow truck with a class B rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year . . . . . $ 75.00

Continuous operation of a two or three-axle collection truck, actually engaged in the collection of solid waste or recyclables, or both, under chapter 81.77 or 35.21 RCW or by contract under RCW 36.58.090, for one year with an additional ((~~six thousand~~)) 6,000 pounds more than the weight authorized in RCW 46.16A.455 on the rear axle of a two-axle truck or ((~~eight thousand~~)) 8,000 pounds for the tandem axles of a three-axle truck. RCW 46.44.041 and 46.44.091 notwithstanding, the tire limits specified in RCW 46.44.042 apply, but none of the excess weight is valid or may be permitted on any part of the federal interstate highway system . . . . . $ 42.00 per thousand pounds

The department may issue any of the above-listed permits that involve height, length, or width for an expanded period of consecutive months, not to exceed one year.

Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:

(1) Farmers in the course of farming activities, for any three-month period . . . . . $ 10.00

(2) Farmers in the course of farming activities, for a period not to exceed one year . . . . . $ 25.00

(3) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for any three-month period . . . . . $ 25.00

(4) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for a period not to exceed one year . . . . . $ 100.00

Overweight Fee Schedule

Excess weight over legal capacity, as provided in RCW 46.44.041.	Cost per mile.
0- 9,999 pounds	$ .07
10,000-14,999 pounds	$ .14

Overweight Fee Schedule

Excess weight over legal capacity, as provided in RCW 46.44.041.	Cost per mile.
15,000-19,999 pounds	$ .21
20,000-24,999 pounds	$ .28
25,000-29,999 pounds	$ .35
30,000-34,999 pounds	$ .49
35,000-39,999 pounds	$ .63
40,000-44,999 pounds	$ .79
45,000-49,999 pounds	$ .93
50,000-54,999 pounds	$ 1.14
55,000-59,999 pounds	$ 1.35
60,000-64,999 pounds	$ 1.56
65,000-69,999 pounds	$ 1.77
70,000-74,999 pounds	$ 2.12
75,000-79,999 pounds	$ 2.47
80,000-84,999 pounds	$ 2.82
85,000-89,999 pounds	$ 3.17
90,000-94,999 pounds	$ 3.52
95,000-99,999 pounds	$ 3.87
100,000 pounds	$ 4.25

The fee for weights in excess of 100,000 pounds is $4.25 plus ((~~fifty~~)) 50 cents for each 5,000 pound increment or portion thereof exceeding 100,000 pounds.

PROVIDED: (a) The minimum fee for any overweight permit shall be $14.00, (b) the fee for issuance of a duplicate permit shall be $14.00, (c) when computing overweight fees prescribed in this section or in RCW 46.44.095 that result in an amount less than even dollars the fee shall be carried to the next full dollar if ((~~fifty~~)) 50 cents or over and shall be reduced to the next full dollar if ((~~forty-nine~~)) 49 cents or under.

The fees levied in this section and RCW 46.44.095 do not apply to vehicles owned and operated by the state of Washington, a county within the state, a city or town or metropolitan municipal corporation within the state, or the federal government.

Passed by the Senate March 1, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 282

[Engrossed Senate Bill 5534]

WORKFORCE EDUCATION INVESTMENT ACCOUNTABILITY AND OVERSIGHT BOARD—STAFFING

AN ACT Relating to workforce education investment accountability and oversight board staffing changes; amending RCW 28C.18.200 and 28B.50.925; adding a new section to chapter 28B.77 RCW; and recodifying RCW 28C.18.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28C.18.200 and 2020 c 2 s 1 are each amended to read as follows:

(1) The workforce education investment accountability and oversight board is established. The board consists of ((~~seventeen~~)) 18 members, as provided in this subsection:

(a) Four members of the legislature consisting of the chairs and ranking minority members of the respective higher education and workforce development committees of the senate and house of representatives, ex officio; and

(b) The following members appointed by the governor with the consent of the senate:

(i) Five members representing the businesses described in RCW 82.04.299 or subject to the tax rate under RCW 82.04.290(2)(a)(i);

(ii) Two members representing labor organizations, one of which must have expertise in registered apprenticeships and training a high-demand workforce and one of which must represent faculty at the four-year institutions of higher education;

(iii) Two members representing the institutions of higher education, as defined in RCW 28B.10.016, one of which must be from the four-year sector and one of which must be from the community and technical college sector;

(iv) Two members representing students, one of which must be a community and technical college student;

(v) One member representing the independent, not-for-profit higher education institutions; ((~~and~~))

(vi) One member representing the workforce training and education coordinating board created under RCW 28C.18.020; and

(vii) One member representing the student achievement council, established under this chapter ((~~28B.77 RCW~~)).

(2) Except for ex officio and student members, board members shall hold their offices for a term of three years until their successors are appointed. Student board members shall hold one-year terms.

(3) The board shall have two cochairs. One cochair shall be one of the chairs of the respective higher education and workforce development committees of the legislature and the other cochair shall be one of the board members representing the businesses described in RCW 82.04.299 or subject to the tax rate under RCW 82.04.290(2)(a)(i). The cochairs shall hold the position for a one-year term. The board members shall elect the cochairs annually.

(4) Nine voting members of the board constitute a quorum for the transaction of business. The board shall meet four times a year.

(5) Staff support for the board shall be provided by the ((~~workforce training and education coordinating board~~)) student achievement council established in this chapter.

(6) The purposes of the board are to:

(a) Provide guidance and recommendations to the legislature on what workforce education priorities should be funded with the workforce education investment account; and

(b) Ensure accountability that the workforce education investments funded with the workforce education investment account are producing the intended results and are effectively increasing student success and career readiness, such as by increasing retention, completion, and job placement rates.

(7) The board shall consult data from the education data center established under RCW 43.41.400 and the workforce training and education coordinating board established under this chapter when reviewing and determining whether workforce education investments funded from the workforce education investment account are effectively increasing student success and career readiness. The workforce training and education coordinating board shall maintain the workforce education investment accountability and oversight board data dashboard on a public-facing portal and work with the board to update and modify the data dashboard as new performance metrics are identified.

(8) The board shall report its recommendations to the appropriate committees of the legislature by August 1st of each year.

(9) For the purposes of this section, "board" means the workforce education investment accountability and oversight board established in this section.

Sec. 2. RCW 28B.50.925 and 2021 c 272 s 4 are each amended to read as follows:

(1) Subject to availability of amounts appropriated for this specific purpose, each community and technical college shall fully implement guided pathways. At a minimum, guided pathways implementation must include:

(a) Comprehensive mapping of student educational pathways with student end goals in mind. These must include transparent and clear career paths that are tightly aligned to the skills sought by employers. Pathways must align course sequences to show clear paths for students, alignment with K-12 and university curriculum, and skill sets needed to enter the workforce;

(b) Dedicated advising and career counseling that helps students make informed program choices and develop completion plans. Advising services may include processes that help students explore possible career and educational choices while also emphasizing early planning. Advising must be culturally competent and with an emphasis on helping historically underserved, low-income, and students of color navigate their education;

(c) Data analysis of student learning as well as program and service outcomes. Data must be used to inform program development, the creation and further refinement of student pathways, and to provide opportunities for early intervention to help students succeed; and

(d) A student success support infrastructure using programs that the state board for community and technical colleges finds have been effective in closing equity gaps among historically underserved student populations and improve student completion rates. The student success support program must be based on research or documented evidence of success. In tandem with guided pathways

implementation, student success support programs may include evidence-based elements such as:

(i) Equity competent academic advising services;

(ii) Equity competent career development programming;

(iii) Clear information regarding financial aid and financial literacy; and

(iv) Inclusive curriculum and teaching practices.

(2) Each community and technical college shall post on its website and include in the guided pathways program documentation and reports definitions for key terms including: Diversity, equity, inclusion, culturally competent, culturally appropriate, historically marginalized communities, communities of color, low-income communities, and community organizations.

(3)(a) The Washington state institute for public policy, in consultation with the workforce education investment accountability and oversight board under RCW 28C.18.200 (as recodified by this act), shall complete an evaluation of the guided pathways model. To the extent possible, the institute shall complete a preliminary report that evaluates the effect of the guided pathways model on early student outcomes including, but not limited to, student retention and persistence, college level English and math within the first year, and graduation and transfer rates. The preliminary report must review the implementation of the guided pathways model in Washington and any available evidence of the effectiveness of the guided pathways model. The preliminary report must be submitted by December 15, 2023.

(b) The Washington state institute for public policy shall complete a final report that evaluates the effect of the guided pathways on longer-term student outcomes including, but not limited to, degree completion, time to degree, transfer to four-year institutions, employment, and earnings, to the extent possible. The final report must be submitted by December 15, 2029.

(c) Both the preliminary and final reports must consider differences in outcomes by racial and ethnic subgroups and socioeconomic status.

NEW SECTION. **Sec. 3.** RCW 28C.18.200 is recodified as a section in chapter 28B.77 RCW.

Passed by the Senate March 7, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 283

[Senate Bill 5606]

ILLEGAL RACING—VARIOUS PROVISIONS

AN ACT Relating to deterring illegal racing; amending RCW 46.61.530, 46.55.360, and 46.55.370; reenacting and amending RCW 46.55.113; adding new sections to chapter 46.04 RCW; adding new sections to chapter 46.61 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04 RCW to read as follows:

"Off-street facility" means a location typically held open for use by the public for parking vehicles, ingress and egress, or used for commercial purposes.

Use of such locations falls under this act when used for illegal racing when such use is without the express permission of the owner of the facility.

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.04 RCW to read as follows:

"Drifting" means a driver intentionally oversteers a vehicle, causing loss of traction, while maneuvering a vehicle in a turning direction.

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

Subject to funds appropriated for this purpose, law enforcement agencies are encouraged to undertake a public education campaign to inform the public of the unlawful nature of illegal racing; the dangers such events pose to attendants, participants, and the general public; and the penalties violators may suffer if they participate in or promote illegal racing, including the possible impoundment and forfeiture of vehicles used to participate in illegal racing. Agencies are encouraged to use multiple strategies in their public education campaigns depending upon available funds, including posts through social media or other web-based platforms, developing and disseminating printed materials or mailings, and creating and posting signs at various locations within the agency's jurisdiction.

Sec. 4. RCW 46.61.530 and 1979 ex.s. c 136 s 87 are each amended to read as follows:

((~~No~~)) (1) It shall be unlawful for any person or persons ((~~may~~)) to race any motor vehicle or motor vehicles upon any public highway of this state as defined in RCW 46.04.197, or upon any off-street facility as defined in section 1 of this act. Any person or persons who ((~~wilfully~~)) willfully compare or contest relative speeds by operation of one or more motor vehicles or who willfully demonstrates, exhibits, or compares speed, maneuverability, or the power of one or more motor vehicles, including "drifting," shall be guilty of racing, which shall constitute reckless driving under RCW 46.61.500 subjecting the violator to the penalties provided for under RCW 46.61.500 unless otherwise provided for in this section, whether or not such speed is in excess of the maximum speed prescribed by law: PROVIDED HOWEVER, That any comparison or contest of the accuracy with which motor vehicles may be operated in terms of relative speeds not in excess of the posted maximum speed does not constitute racing. Nothing in this section prohibits a person from being charged under other provisions of the law for other acts, results, incidents, damages, injuries, or deaths that occur as a result of, or in addition to, their participation in racing.

(2) Any person who knowingly aids and abets racing under subsection (1) of this section may be charged and prosecuted as an accomplice in accordance with RCW 46.64.048.

(3) The offenses described in this section may be deemed to have been committed either at the time and location from which the person charged initiated his or her efforts, or at the time and location where the completed traffic infraction or crime occurred regardless of whether the person charged under this section was ever actually present at the time and location of the completed traffic infraction or crime.

NEW SECTION. **Sec. 5.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A vehicle used to commit the crime of racing is subject to impoundment as provided for in chapter 46.55 RCW.

(2) If an operator has previously had a vehicle impounded due to illegal racing conduct, regardless of whether a criminal charge or a conviction resulted from that conduct, and the operator is convicted of a subsequent offense that was originally charged under RCW 46.61.500 or 46.61.530 or a comparable municipal ordinance, the vehicle operated by the operator is subject to forfeiture as follows:

(a) No property may be forfeited under this section until after the operator is convicted of the crime of racing under RCW 46.61.530 and a finding is made that the operator used the vehicle to commit such crime.

(b) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if at the time the security interest was created, the secured party neither had knowledge of nor consented to the commission of the offense.

(c) A vehicle subject to forfeiture under this section may be seized by any law enforcement officer of this state upon process issued by any court having jurisdiction over the property. However, seizure of the vehicle may be made without process if:

(i) The seizure is incident to an arrest or a search under a search warrant; or

(ii) The vehicle subject to seizure has been the subject of a prior judgment in favor of the seizing agency in a forfeiture proceeding based on this section; or

(iii) A law enforcement officer has probable cause to believe that the vehicle was used or is intended to be used in the commission of a felony.

(d) In the event of seizure pursuant to this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within 15 days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. The notice of seizure may be served by any method authorized by law or court rule including, but not limited to, service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the 15-day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(e) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within 60 days of the seizure, the item seized shall either be deemed forfeited if the operator is convicted as provided for in this section, or the vehicle shall be returned to the owner of record if the operator is not convicted as provided for in (a) of this subsection.

(f) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within 60 days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing

shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within 45 days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the municipal court of the municipality that operates the seizing agency, or if there is no such municipal court, the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(g) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

(i) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the criminal law;

(ii) Sell that which is not required to be destroyed by law and which is not harmful to the public, and use the proceeds to fund personnel, programs, services, and equipment related to the enforcement and processing of street racing violations, or to address and improve general traffic safety, within the seizing agency's jurisdiction.

Sec. 6. RCW 46.55.113 and 2020 c 330 s 13 and 2020 c 117 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

(e) Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504;

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

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

(h) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ((~~ninety~~)) 90 days or more;

(i) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least ((~~twenty-four~~)) 24 hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(j) When a vehicle with an expired registration of more than ((~~forty-five~~)) 45 days is parked on a public street;

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

(l) Whenever the driver of a vehicle is arrested for illegal racing conduct in violation of RCW 46.61.500 or 46.61.530 or a comparable municipal ordinance.

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

(4) The additional procedures outlined in RCW 46.55.360 apply to any impoundment of a vehicle under subsection (2)(e) of this section.

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

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

Sec. 7. RCW 46.55.360 and 2020 c 117 s 3 are each amended to read as follows:

(1)(a) When a driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504, or illegal racing conduct under RCW 46.61.500 or 46.61.530 or a comparable municipal ordinance, and the officer directs the impoundment of the vehicle under RCW 46.55.113(2) (e) or (l), the vehicle must be impounded and retained under the process outlined in this section. With the exception of the ((~~twelve-hour hold~~)) holds mandated under this section, the procedures for notice, redemption, storage, auction, and sale shall remain the same as for other impounded vehicles under this chapter.

(b) If the police officer directing that a vehicle be impounded under RCW 46.55.113(2) (e) or (l) has:

(i) Waited ((~~thirty~~)) 30 minutes after the police officer contacted the police dispatcher requesting a registered tow truck operator and the tow truck responding has not arrived, or

(ii) If the police officer is presented with exigent circumstances such as being called to another incident or due to limited available resources being required to return to patrol,

the police officer may place the completed impound order and inventory inside the vehicle and secure the vehicle by closing the windows and locking the doors before leaving.

(c) If a police officer has secured the vehicle and left it pursuant to (b) of this subsection, the police officer and the government or agency employing the police officer shall not be liable for any damages to or theft of the vehicle or its contents that occur between the time the officer leaves and the time that the registered tow truck operator takes custody of the vehicle, or for the actions of any person who takes or removes the vehicle before the registered tow truck operator arrives.

(2)(a) When a vehicle is impounded under RCW 46.55.113(2)(e) and the driver is a registered owner of the vehicle, the impounded vehicle may not be redeemed within a ((~~twelve-hour~~)) 12-hour period following the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners of the vehicle or there is a legal owner of the vehicle that is not the driver of the vehicle. A registered owner who is not the driver of the vehicle or a legal owner who is not the driver of the vehicle may redeem the impounded vehicle after it arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(b) When a vehicle is impounded under RCW 46.55.113(2)(e) and the driver is a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may not be redeemed within a ((~~twelve-hour~~)) 12-hour period following the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners or there is a legal owner who is not the driver of the vehicle. The police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by either a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(c) When a vehicle is impounded under RCW 46.55.113(2)(l), the driver is arrested for racing, and the driver is a registered owner of the vehicle, the impounded vehicle may not be redeemed for a period of 72 hours from the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners of the vehicle or there is a legal owner of the vehicle that is not the driver of the vehicle. A registered owner who is not the driver of the vehicle or a legal owner who is not the driver of the vehicle may redeem the impounded vehicle after it arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(d) When a vehicle is impounded under RCW 46.55.113(2)(l), the driver is arrested for racing, and the driver is a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may not be redeemed for 72 hours from the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners or there is a legal owner who is not the driver of the vehicle. The police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by either a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(3)(a) When a vehicle is impounded under RCW 46.55.113(2)(e) and the driver is not a registered owner of the vehicle, the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(b) When a vehicle is impounded under RCW 46.55.113(2)(e) and the driver is not a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(c) When a vehicle is impounded under RCW 46.55.113(2)(l), the driver is arrested for racing, and the driver is not a registered owner of the vehicle, the impounded vehicle may be redeemed by a registered owner or legal owner, who

is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(d) When a vehicle is impounded under RCW 46.55.113(2)(l), the driver is arrested for racing, and the driver is not a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(e) If the vehicle is a commercial vehicle or farm transport vehicle and the driver of the vehicle is not the owner of the vehicle, prior to determining that no reasonable alternatives to impound exist and directing impoundment of the vehicle under RCW 46.55.113(2) (e) or (l), the police officer must have attempted in a reasonable and timely manner to contact the owner, and release the vehicle to the owner if the owner was reasonably available ((~~and~~)), not under the influence of alcohol or any drug, and not a party to the racing conduct that subjects the vehicle to impound.

(((~~(d)~~))) (f) The registered tow truck operator shall notify the agency that ordered that the vehicle be impounded when the vehicle arrives at the registered tow truck operator's storage facility and has been entered into the master log starting ((~~the twelve-hour period~~)) any mandatory hold period provided for in this section.

(4) A registered tow truck operator that releases an impounded vehicle pursuant to the requirements stated in this section is not liable for injuries or damages sustained by the operator of the vehicle or sustained by third parties that may result from the vehicle driver's intoxicated state or illegal conduct relating to racing.

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

Sec. 8. RCW 46.55.370 and 2011 c 167 s 4 are each amended to read as follows:

If an impoundment arising from an alleged violation of RCW 46.61.502 or 46.61.504, or illegal racing under RCW 46.61.500 or 46.61.530, or a comparable ordinance is determined to be in violation of this chapter, then the police officer directing the impoundment and the government employing the officer are not liable for damages for loss of use of the vehicle if the officer had reasonable suspicion to believe that the driver of the vehicle was driving ((~~while under the influence of intoxicating liquor or any drug, or was in physical control of a vehicle while under the influence of intoxicating liquor or any drug~~)) the vehicle in violation of RCW 46.61.502 or 46.61.504, or conducting illegal racing in violation of RCW 46.61.500 or 46.61.530, or comparable municipal ordinance.

NEW SECTION. **Sec. 9.** This act takes effect January 1, 2024.

Passed by the Senate February 28, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 284

[Engrossed Second Substitute Senate Bill 5634]

PROBLEM GAMBLING—VARIOUS PROVISIONS

AN ACT Relating to problem gambling; amending RCW 41.05.750, 67.70.340, 82.04.285, 82.04.286, and 9.46.071; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

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

(a) The costs to society of problem gambling and gambling disorder include family disintegration, criminal activity, and financial insolvencies;

(b) Individuals experiencing problem gambling and gambling disorder are at significantly increased risks for other co-occurring disorders, including substance use disorder and mental health issues such as depression, anxiety, or other behavioral health concerns;

(c) Residents of Washington may participate in a variety of legal gaming activities such as the state-run lottery, tribal gaming by federally recognized Indian tribes, certain fund-raisers offered by bona fide charitable and nonprofit organizations, and punchboards, pull-tabs, and social card games approved as a commercial stimulant at established businesses primarily engaged in the selling of food or drink for consumption on the premises;

(d) A 2021 prevalence study found that among all adults, 1.5 percent are at a moderate-to-severe risk for developing a gambling disorder, and among adults who gamble, 3.5 percent are at a moderate-to-severe risk of a gambling disorder; and

(e) The 2022 problem gambling task force final report, delivered to the legislature in December 2022, determined there are critical gaps in providing state-funded comprehensive problem gambling services to Washington residents, including:

(i) Prevention efforts not coordinated with other behavioral health and substance abuse prevention initiatives;

(ii) Problem gambling treatment coverage is not available across the state; and

(iii) No state-supported residential treatment services are available in Washington state.

(2) The legislature intends to provide long-term, dedicated funding for prevention, public awareness efforts, and education regarding problem gambling disorder, clinical training, workforce development, and accessible treatment services for individuals impacted by problem gambling or gambling disorders as well as after-care support.

Sec. 2. RCW 41.05.750 and 2018 c 201 s 2004 are each amended to read as follows:

(1) A program for (a) ((~~the prevention and~~)) year-round integrated problem gambling prevention efforts that include community engagement and the treatment of problem ((~~and pathological~~)) gambling and gambling disorder; and (b) the support, certification, and training of professionals in the identification and treatment of problem ((~~and pathological~~)) gambling and gambling disorder is established within the authority((~~, to be administered by a qualified person who has training and experience in problem gambling or the organization and administration of treatment services for persons suffering from problem gambling~~)). The department of health may license or certify ((~~and the~~)) behavioral health agencies for problem gambling treatment. The authority may contract ((~~with treatment facilities~~)) for any services provided under the program. The authority shall ((~~track~~)) conduct a program evaluation, including tracking program participation and ((~~client~~)) evaluating outcomes.

(2) To receive treatment under subsection (1) of this section, a person must:

(a) Need treatment for problem ((~~or pathological~~)) gambling or gambling disorder, or ((~~because of the problem or pathological gambling of a family member, but be unable to afford treatment~~)) be impacted by a loved one experiencing problem gambling or gambling disorder; ((~~and~~))

(b) Be ((~~targeted~~)) identified by the authority as being most amenable to and likely to benefit from treatment; and

(c) Be unable to afford treatment.

(3) Treatment under this section is available only to the extent of the funds appropriated or otherwise made available to the authority for this purpose. The authority may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, any tribal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies or any tribal government in making an application for any grant.

(4)(a) The authority shall establish and facilitate an ongoing advisory committee ((~~to assist it in designing, managing, and evaluating the effectiveness of the program established in this section. The advisory committee shall give due consideration in the design and management of the program that persons who hold licenses or contracts issued by the gambling commission, horse racing commission, and lottery commission are not excluded from, or discouraged from, applying to participate in the program. The committee shall include, at a minimum, persons knowledgeable in the field of problem and pathological gambling and persons representing tribal gambling, privately owned nontribal gambling, and the state lottery.~~

~~(5) For purposes of this section, "pathological gambling" is a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences. "Problem gambling" is an earlier stage of pathological gambling which compromises, disrupts, or damages family or personal relationships or vocational pursuits~~)) that will hold quarterly meetings to:

(i) Track progress of recommendations from the 2022 legislative problem gambling task force final report;

(ii) Provide advice and feedback on the state problem gambling program upon request by the authority; and

(iii) Discuss emerging issues related to problem gambling and identify possible strategies for improvement.

(b) The advisory committee membership must include, at a minimum, at least one representative from each of the following:

(i) The Washington state gambling commission;

(ii) The Washington state lottery commission;

(iii) The Washington state horse racing commission;

(iv) The Washington state health care authority;

(v) The tribal gaming industry;

(vi) An established business primarily engaged in the selling of food or drink for consumption on the premises and that offers punchboards, pull-tabs, and social card games as a commercial stimulant;

(vii) The gambling counselor certification committee;

(viii) A nonprofit problem gambling organization; and

(ix) The recovery community including at least one member with lived experience of problem gambling.

Sec. 3. RCW 67.70.340 and 2012 1st sp.s. c 10 s 6 are each amended to read as follows:

(1) The legislature recognizes that creating a shared game lottery could result in less revenue being raised by the existing state lottery ticket sales. The legislature further recognizes that the fund most impacted by this potential event is the Washington opportunity pathways account. Therefore, it is the intent of the legislature to use some of the proceeds from the shared game lottery to make up the difference that the potential state lottery revenue loss would have on the Washington opportunity pathways account. The legislature further intends to use some of the proceeds from the shared game lottery to fund programs and services related to problem ((~~and pathological~~)) gambling and gambling disorder.

(2) The Washington opportunity pathways account is expected to receive ((~~one hundred two million dollars~~)) $102,000,000 annually from state lottery games other than the shared game lottery. For fiscal year 2011 and thereafter, if the amount of lottery revenues earmarked for the Washington opportunity pathways account is less than ((~~one hundred two million dollars~~)) $102,000,000, the commission, after making the transfer required under subsection (3) of this section, must transfer sufficient moneys from revenues derived from the shared game lottery into the Washington opportunity pathways account to bring the total revenue up to ((~~one hundred two million dollars~~)) $102,000,000.

(3)(a) The commission shall transfer, from revenue derived from the shared game lottery, to the problem gambling account created in RCW ((~~43.20A.892~~)) 41.05.751, an amount equal to the percentage specified in (b) of this subsection of net receipts. For purposes of this subsection, "net receipts" means the difference between (i) revenue received from the sale of lottery tickets or shares and revenue received from the sale of shared game lottery tickets or shares; and (ii) the sum of payments made to winners.

(b) In fiscal year ((~~2006~~)) 2024, the percentage to be transferred to the problem gambling account is ((~~one-tenth of one~~)) 0.20 percent. In fiscal year

((~~2007~~)) 2025 and subsequent fiscal years, the percentage to be transferred to the problem gambling account is ((~~thirteen one-hundredths of one~~)) 0.26 percent.

(4) The commission shall transfer the remaining net revenues, if any, derived from the shared game lottery "Powerball" authorized in RCW 67.70.044(1) after the transfers pursuant to this section into the state general fund for support for the program of basic education under RCW 28A.150.200.

(5) The remaining net revenues, if any, in the shared game lottery account after the transfers pursuant to this section shall be deposited into the Washington opportunity pathways account.

Sec. 4. RCW 82.04.285 and 2014 c 97 s 303 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of operating contests of chance; as to such persons, the amount of tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of 1.5 percent.

(2) An additional tax is imposed on those persons subject to tax in subsection (1) of this section. The amount of the additional tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of ((~~0.1~~)) 0.2 percent through June 30, ((~~2006~~)) 2024, and ((~~0.13~~)) 0.26 percent thereafter. The money collected under this subsection (2) shall be deposited in the problem gambling account created in RCW ((~~43.20A.892~~)) 41.05.751. This subsection does not apply to businesses operating contests of chance when the gross income from the operation of contests of chance is less than ((~~fifty thousand dollars~~)) $50,000 per year.

(3)(a) For the purpose of this section, "contests of chance" means any contests, games, gaming schemes, or gaming devices, other than the state lottery as defined in RCW 67.70.010, in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor in the outcome. The term includes social card games, bingo, raffle, and punchboard games, and pull-tabs as defined in chapter 9.46 RCW.

(b) The term does not include: (i) Race meet for the conduct of which a license must be secured from the Washington horse racing commission, (ii) "amusement game" as defined in RCW 9.46.0201, or (iii) any activity that is not subject to regulation by the gambling commission.

(4) "Gross income of the business" does not include the monetary value or actual cost of any prizes that are awarded, amounts paid to players for winning wagers, accrual of prizes for progressive jackpot contests, or repayment of amounts used to seed guaranteed progressive jackpot prizes.

Sec. 5. RCW 82.04.286 and 2005 c 369 s 6 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of conducting race meets for the conduct of which a license must be secured from the Washington horse racing commission; as to such persons, the amount of tax with respect to the business of parimutuel wagering is equal to the gross income of the business derived from parimutuel wagering multiplied by the rate of ((~~0.1~~)) 0.2 percent through June 30, ((~~2006~~)) 2024, and ((~~0.13~~)) 0.26 percent

thereafter. The money collected under this section shall be deposited in the problem gambling account created in RCW ((~~43.20A.892~~)) 41.05.751.

(2) For purposes of this section, "gross income of the business" does not include amounts paid to players for winning wagers, or taxes imposed or other distributions required under chapter 67.16 RCW.

(3) The tax imposed under this section is in addition to any tax imposed under chapter 67.16 RCW.

Sec. 6. RCW 9.46.071 and 2019 c 213 s 1 are each amended to read as follows:

(1)(((~~(a)~~))) The legislature recognizes that some individuals in this state ((~~have a gambling problem or~~)) are negatively impacted by problem gambling and gambling disorder. Because the state promotes and regulates gambling through the activities of the state lottery commission, the Washington horse racing commission, and the Washington state gambling commission, the state has the responsibility to continue to provide resources for the support of ((~~services for~~)) problem gambling ((~~and gambling disorders.~~

~~(b) The~~)) services. Therefore, the Washington state gambling commission, the Washington horse racing commission, and the state lottery commission shall ((~~jointly develop~~)) maintain placement of problem gambling and gambling disorder informational signs which include a toll-free ((~~hotline~~)) helpline number for ((~~individuals with a gambling problem or~~)) problem gambling and gambling disorder. The signs shall be placed in the establishments of gambling licensees, horse racing licensees, and lottery retailers.

(((~~(c)~~))) The Washington state gambling commission, the Washington horse racing commission, and the state lottery commission may also contract with other qualified entities to provide public awareness, training, and other services to ensure the intent of this section is fulfilled.

(((~~(d)~~))) (2) Individuals and families impacted by ((~~a gambling~~)) problem gambling or gambling disorder will benefit from the availability of a uniform self-exclusion program where people may voluntarily exclude themselves from gambling at multiple gambling establishments by submitting one self-exclusion form to the state from one location for all gambling activities. Therefore, the Washington state gambling commission must establish a statewide self-exclusion program for all licensees. The commission has discretion in establishing the scope, process, and requirements of the self-exclusion program, including denying, suspending, or revoking an application, license, or permit. However, the initial program must comply with the following minimum requirements:

(((~~(i)~~))) (a) The program must allow persons to voluntarily exclude themselves from gambling at authorized gambling establishments that offer house-banked social card games;

(((~~(ii)~~))) (b) The program must have a process for federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts to voluntarily participate in the self-exclusion program;

(((~~(iii)~~))) (c)(i) Any individual registered with the self-exclusion program created under this section is prohibited from participating in gambling activities associated with this program and forfeits all moneys and things of value obtained by the individual or owed to the individual by an authorized gambling establishment as a result of prohibited wagers or gambling activities. The

commission may adopt rules for the forfeiture of any moneys or things of value, including wagers, obtained by an authorized gambling establishment while an individual is registered with the self-exclusion program created under this section.

(ii) Moneys and things of value forfeited under the self-exclusion program must be distributed to the problem gambling account created in RCW 41.05.751 and/or a charitable or nonprofit organization that provides problem gambling services or increases awareness about problem gambling pursuant to rules adopted by the commission; and

(((~~(iv)~~))) (d) The commission must adopt rules establishing the self-exclusion program by June 30, 2021.

(((~~(e)~~))) (3) An individual who participates in the self-exclusion program does not have a cause of action against the state of Washington, the commission, or any gambling establishment, its employees, or officers for any acts or omissions in processing or enforcing the requirements of the self-exclusion program, including a failure to prevent an individual from gambling at an authorized gambling establishment.

(((~~(f)~~))) (4) Any personal information collected, stored, or accessed under the self-exclusion program may only be used for the administration of the self-exclusion program and may not be disseminated for any purpose other than the administration of the self-exclusion program.

(((~~(2)~~))) (5)(a) During any period in which RCW 82.04.285(2) is in effect, the commission may not increase fees payable by licensees under its jurisdiction for the purpose of funding services for problem gambling and gambling disorder. Any fee imposed or increased by the commission, for the purpose of funding these services, before July 1, 2005, has no force and effect after July 1, 2005.

(b) During any period in which RCW 82.04.285(2) is not in effect:

(i) The commission, the Washington state horse racing commission, and the state lottery commission may contract for services, in addition to those authorized in subsection (1) of this section, to assist in providing for problem gambling and gambling disorder treatment; and

(ii) The commission may increase fees payable by licensees under its jurisdiction for the purpose of funding the problem gambling and gambling disorder services authorized in this section.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 8.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the Senate March 8, 2023.

Passed by the House April 10, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.

CHAPTER 285

[Engrossed Substitute House Bill 1042]

USE OF EXISTING BUILDINGS FOR RESIDENTIAL PURPOSES

AN ACT Relating to the creation of additional housing units in existing buildings; amending RCW 43.21C.450; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 35.21 RCW; and adding a new section to chapter 19.27A RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 35A.21 RCW to read as follows:

(1)(a) Code cities must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of subsection (2) of this section for buildings that are zoned for commercial or mixed use no later than six months after its next periodic comprehensive plan update required under RCW 36.70A.130.

(b) The requirements of subsection (2) of this section apply and take effect in any code city that has not adopted or amended ordinances, regulations, or other official controls as required under this section by the timeline in (a) of this subsection and supersede, preempt, and invalidate any conflicting local development regulations.

(2) Through ordinances, development regulations, zoning regulations, or other official controls as required under subsection (1) of this section, code cities may not:

(a) Impose a restriction on housing unit density that prevents the addition of housing units at a density up to 50 percent more than what is allowed in the underlying zone if constructed entirely within an existing building envelope in a building located within a zone that permits multifamily housing, provided that generally applicable health and safety standards, including but not limited to building code standards and fire and life safety standards, can be met within the building;

(b) Impose parking requirements on the addition of dwelling units or living units added within an existing building, however, cities may require the retention of existing parking that is required to satisfy existing residential parking requirements under local laws and for nonresidential uses that remain after the new units are added;

(c) With the exception of emergency housing and transitional housing uses, impose permitting requirements on the use of an existing building for residential purposes beyond those requirements generally applicable to all residential development within the building's zone;

(d) Impose design standard requirements, including setbacks, lot coverage, and floor area ratio requirements, on the use of an existing building for residential purposes beyond those requirements generally applicable to all residential development within the building's zone;

(e) Impose exterior design or architectural requirements on the residential use of an existing building beyond those necessary for health and safety of the use of the interior of the building or to preserve character-defining streetscapes, unless the building is a designated landmark or is within a historic district established through a local preservation ordinance;

(f) Prohibit the addition of housing units in any specific part of a building except ground floor commercial or retail that is along a major pedestrian

corridor as defined by the code city, unless the addition of the units would violate applicable building codes or health and safety standards;

(g) Require unchanged portions of an existing building used for residential purposes to meet the current energy code solely because of the addition of new dwelling units within the building, however, if any portion of an existing building is converted to new dwelling units, each of those new units must meet the requirements of the current energy code;

(h) Deny a building permit application for the addition of housing units within an existing building due to nonconformity regarding parking, height, setbacks, elevator size for gurney transport, or modulation, unless the code city official with decision-making authority makes written findings that the nonconformity is causing a significant detriment to the surrounding area; or

(i) Require a transportation concurrency study under RCW 36.70A.070 or an environmental study under chapter 43.21C RCW based on the addition of residential units within an existing building.

(3) Nothing in this section requires a code city to approve a building permit application for the addition of housing units constructed entirely within an existing building envelope in a building located within a zone that permits multifamily housing in cases in which the building cannot satisfy life safety standards.

(4) For the purpose of this section, "existing building" means a building that received a certificate of occupancy at least three years prior to the permit application to add housing units.

NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW to read as follows:

(1)(a) Cities must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of subsection (2) of this section for buildings that are zoned for commercial or mixed use no later than six months after its next periodic comprehensive plan update required under RCW 36.70A.130.

(b) The requirements of subsection (2) of this section apply and take effect in any city that has not adopted or amended ordinances, regulations, or other official controls as required under this section by the timeline in (a) of this subsection and supersede, preempt, and invalidate any conflicting local development regulations.

(2) Through ordinances, development regulations, zoning regulations, or other official controls as required under subsection (1) of this section, cities may not:

(a) Impose a restriction on housing unit density that prevents the addition of housing units at a density up to 50 percent more than what is allowed in the underlying zone if constructed entirely within an existing building envelope in a building located within a zone that permits multifamily housing, provided that generally applicable health and safety standards, including but not limited to building code standards and fire and life safety standards, can be met within the building;

(b) Impose parking requirements on the addition of dwelling units or living units added within an existing building, however, cities may require the retention of existing parking that is required to satisfy existing residential parking

requirements under local laws and for nonresidential uses that remain after the new units are added;

(c) With the exception of emergency housing and transitional housing uses, impose permitting requirements on the use of an existing building for residential purposes beyond those requirements generally applicable to all residential development within the building's zone;

(d) Impose design standard requirements, including setbacks, lot coverage, and floor area ratio requirements, on the use of an existing building for residential purposes beyond those requirements generally applicable to all residential development within the building's zone;

(e) Impose exterior design or architectural requirements on the residential use of an existing building beyond those necessary for health and safety of the use of the interior of the building or to preserve character-defining streetscapes, unless the building is a designated landmark or is within a historic district established through a local preservation ordinance;

(f) Prohibit the addition of housing units in any specific part of a building except ground floor commercial or retail that is along a major pedestrian corridor as defined by each city, unless the addition of the units would violate applicable building codes or health and safety standards;

(g) Require unchanged portions of an existing building used for residential purposes to meet the current energy code solely because of the addition of new dwelling units within the building, however, if any portion of an existing building is converted to new dwelling units, each of those new units must meet the requirements of the current energy code;

(h) Deny a building permit application for the addition of housing units within an existing building due to nonconformity regarding parking, height, setbacks, elevator size for gurney transport, or modulation, unless the city official with decision-making authority makes written findings that the nonconformity is causing a significant detriment to the surrounding area; or

(i) Require a transportation concurrency study under RCW 36.70A.070 or an environmental study under chapter 43.21C RCW based on the addition of residential units within an existing building.

(3) Nothing in this section requires a city to approve a building permit application for the addition of housing units constructed entirely within an existing building envelope in a building located within a zone that permits multifamily housing in cases in which the building cannot satisfy life safety standards.

(4) For the purpose of this section, "existing building" means a building that received a certificate of occupancy at least three years prior to the permit application to add housing units.

NEW SECTION. **Sec. 3.** A new section is added to chapter 19.27A RCW to read as follows:

By January 1, 2024, the state building code council shall adopt by rule an amendment to the current energy code that waives the requirement for unchanged portions of an existing building used for residential purposes to meet the current energy code solely because of the addition of new dwelling units within the building. New dwelling units created within the existing building must meet the requirements of the current energy code.

Sec. 4. RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each amended to read as follows:

The following nonproject actions are categorically exempt from the requirements of this chapter:

(1) Amendments to development regulations that are required to ensure consistency with an adopted comprehensive plan pursuant to RCW 36.70A.040, where the comprehensive plan was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(2) Amendments to development regulations that are required to ensure consistency with a shoreline master program approved pursuant to RCW 90.58.090, where the shoreline master program was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(3) Amendments to development regulations that, upon implementation of a project action, will provide increased environmental protection, limited to the following:

(a) Increased protections for critical areas, such as enhanced buffers or setbacks;

(b) Increased vegetation retention or decreased impervious surface areas in shoreline jurisdiction; and

(c) Increased vegetation retention or decreased impervious surface areas in critical areas;

(4) Amendments to technical codes adopted by a county, city, or town to ensure consistency with minimum standards contained in state law, including the following:

(a) Building codes required by chapter 19.27 RCW;

(b) Energy codes required by chapter 19.27A RCW; and

(c) Electrical codes required by chapter 19.28 RCW.

(5) Adoption or amendment of ordinances, development regulations, zoning regulations, and other official controls necessary to comply with sections 1 and 2 of this act.

Passed by the House April 14, 2023.

Passed by the Senate April 5, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

CHAPTER 286

[Engrossed Second Substitute Senate Bill 5199]

NEWSPAPER AND DIGITAL CONTENT PUBLISHERS—BUSINESS AND OCCUPATION TAX PREFERENCE

AN ACT Relating to tax relief for newspaper publishers; amending RCW 82.04.260, 35.102.150, 82.04.460, and 82.08.806; adding a new section to chapter 82.04 RCW; creating new sections; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that Washington state's local newspapers and online digital news publishers are important providers of journalism in their communities. Across the state and the country, local newspapers are vanishing at an alarming rate.

Since the advent of the internet, Washington state newspapers, large and small, have experienced severe financial losses that caused layoffs and reduced journalistic capacity. Between 2005 and 2020, Washington state newspapers lost 67 percent of their newsroom employees. Many print media organizations operate at a deficit due to disruption of traditional revenue streams and even the surviving legacy news organizations are cutting staff and circulation. Washington state has lost more than two dozen weeklies and three dailies since 2004. The decline of these journalistic institutions represents a threat to democracy, government accountability, and civic engagement.

A Portland State University study found that the loss of local journalism is correlated to a decline in civic engagement, both nationally and in Washington state, which includes contacting a public office to express an opinion, participating in school groups, community associations, or civic organizations, and serving on a committee of any group or organization.

The legislature finds that local journalism can help keep watch over health trends in the community by identifying and preventing disease. The legislature finds that rural and underserved communities are the hardest hit in the area of public health when newspapers decline.

The legislature finds that local journalism helps combat government corruption and holds powerful institutions accountable.

Newspapers in Washington state have lobbied and editorialized for open public records, and fought attempts to rein in frivolous requests, costing local and state governments millions of dollars each year.

Without legislative action, the current business and occupation tax preference for newspaper publishers will expire on July 1, 2024.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by any person for engaging in any of the following activities:

(a) Printing a newspaper, publishing a newspaper, or both; or

(b) Publishing eligible digital content by a person who reported under the printing and publishing tax classification for the reporting period that covers January 1, 2008, for engaging in printing and/or publishing a newspaper, as defined on January 1, 2008.

(2) The exemption under this section must be reduced by an amount equal to the value of any expenditure made by the person during the tax reporting period. For purposes of this subsection, "expenditure" has the meaning provided in RCW 42.17A.005.

(3) If a person who is primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities, charges a single, nonvariable amount to advertise in, subscribe to, or access content in both a publication identified in subsection (1) of this section and another type of publication, the entire amount is exempt under this section.

(4) For purposes of this section, "eligible digital content" means a publication that:

(a) Is published at regularly stated intervals of at least once per month;

(b) Features written content, the largest category of which, as determined by word count, contains material that identifies the author or the original source of the material; and

(c) Is made available to readers exclusively in an electronic format.

(5) The exemption under this section applies only to persons primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities, unless these business activities were previously engaged in by an affiliated person and were not the affiliated person's primary business activity.

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

(a) "Affiliated" has the same meaning as provided in RCW 82.04.299.

(b) "Primarily" means, with respect to a business activity or combination of business activities of a taxpayer, more the 50 percent of the taxpayer's gross worldwide income from all business activities, whether subject to tax under this chapter or not, comes from such activity or activities.

Sec. 3. RCW 82.04.260 and 2022 c 16 s 140 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2025, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c)(i) Except as provided otherwise in (c)(iii) of this subsection, from July 1, 2025, until January 1, 2036, dairy products; or selling dairy products that the person has manufactured to purchasers who either transport in the ordinary course of business the goods out of state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(ii) For the purposes of this subsection (1)(c), "dairy products" means:

(A) Products, not including any cannabis-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than seventy percent dairy products that qualify under (c)(ii)(A) of this subsection, measured by weight or volume.

(iii) The preferential tax rate provided to taxpayers under this subsection (1)(c) does not apply to sales of dairy products on or after July 1, 2023, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product;

(d)(i) Beginning July 1, 2025, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(ii) For purposes of this subsection (1)(d), "fruits" and "vegetables" do not include cannabis, useable cannabis, or cannabis-infused products; and

(e) Wood biomass fuel; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent. For the purposes of this section, "wood biomass fuel" means a liquid or gaseous fuel that is produced from lignocellulosic feedstocks, including wood, forest, or field residue and dedicated energy crops, and that does not include wood treated with chemical preservations such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)(a) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was two hundred fifty thousand dollars or less; as to such persons the amount of the tax with respect to such activities is equal to

the gross income derived from such activities multiplied by the rate of 0.275 percent.

(b) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was more than two hundred fifty thousand dollars; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent through June 30, 2019, and 0.9 percent beginning July 1, 2019.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 70A.380.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 70A.384 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007;

(ii) 0.2904 percent beginning July 1, 2007, through March 31, 2020; and

(iii) Beginning April 1, 2020, 0.484 percent, subject to any reduction required under (e) of this subsection (11). The tax rate in this subsection (11)(a)(iii) applies to all business activities described in this subsection (11)(a).

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.2904 percent through March 31, 2020; and

(ii) Beginning April 1, 2020, the following rates, which are subject to any reduction required under (e) of this subsection (11):

(A) The rate under RCW 82.04.250(1) on the business of making retail sales of tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes; and

(B) 0.484 percent on all other business activities described in this subsection (11)(b).

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d)(i) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual tax performance report with the department under RCW 82.32.534. However, this requirement does not apply to persons reporting under the tax rate in (a)(iii) of this subsection (11), so long as that rate remains 0.484 percent, or under any of the tax rates in (b)(ii)(A) and (B) of this subsection (11), so long as those tax

rates remain the rate imposed pursuant to RCW 82.04.250(1) and 0.484 percent, respectively.

(ii) Nothing in (d)(i) of this subsection (11) may be construed as affecting the obligation of a person reporting under a tax rate provided in this subsection (11) to file a complete annual tax performance report with the department under RCW 82.32.534: (A) Pursuant to another provision of this title as a result of claiming a tax credit or exemption; or (B) pursuant to (d)(i) of this subsection (11) as a result of claiming the tax rates in (a)(ii) or (b)(i) of this subsection (11) for periods ending before April 1, 2020.

(e)(i) After March 31, 2021, the tax rates under (a)(iii) and (b)(ii) of this subsection (11) must be reduced to 0.357 percent provided the conditions in RCW 82.04.2602 are met. The effective date of the rates authorized under this subsection (11)(e) must occur on the first day of the next calendar quarter that is at least sixty days after the department receives the last of the two written notices pursuant to RCW 82.04.2602 (3) and (4).

(ii) Both a significant commercial airplane manufacturer separately and the rest of the aerospace industry as a whole, receiving the rate of 0.357 percent under this subsection (11)(e) are subject to the aerospace apprenticeship utilization rates required under RCW 49.04.220 by April 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under this subsection (11)(e), whichever is later, as determined by the department of labor and industries.

(iii) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this subsection (11)(e).

(f)(i) Except as provided in (f)(ii) of this subsection (11), this subsection (11) does not apply on and after July 1, 2040.

(ii) With respect to the manufacturing of commercial airplanes or making sales, at retail or wholesale, of commercial airplanes, this subsection (11) does not apply on and after July 1st of the year in which the department makes a determination that any final assembly or wing assembly of any version or variant of a commercial airplane that is the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850 has been sited outside the state of Washington. This subsection (11)(f)(ii) only applies to the manufacturing or sale of commercial airplanes that are the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850. This subsection (11)(f)(ii) continues to apply during the time that a person is subject to the tax rate in (a)(iii) of this subsection (11).

(g) For the purposes of this subsection, "a significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least fifty thousand full-time employees in Washington as of January 1, 2021.

(12)(a) Until July 1, 2045, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(b) Until July 1, 2045, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products

or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined in RCW 19.27.570(1); as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(c) Until July 1, 2045, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; (iii) wood products manufactured by that person from timber or timber products; or (iv) products defined in RCW 19.27.570(1) manufactured by that person; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, wood products, or products defined in RCW 19.27.570(1) multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(d) Until July 1, 2045, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual tax performance report with the department under RCW 82.32.534.

(g) Nothing in this subsection (12) may be construed to affect the taxation of any activity defined as a retail sale in RCW 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW 82.04.060(2), or taxed under RCW 82.04.280(1)(g).

(13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~(((14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.35 percent until July 1, 2024, and 0.484 percent thereafter.~~

~~(b) A person reporting under the tax rate provided in this subsection (14) must file a complete annual tax performance report with the department under RCW 82.32.534.~~))

Sec. 4. RCW 35.102.150 and 2011 c 174 s 201 are each amended to read as follows:

Notwithstanding RCW 35.102.130, a city that imposes a business and occupation tax must allocate a person's gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspapers, periodicals, or magazines are those activities to which the exemption in section 2 of this act and the tax rate((~~s~~)) in RCW ((~~82.04.260(13) and~~)) 82.04.280(1)(a) apply.

Sec. 5. RCW 82.04.460 and 2014 c 97 s 304 are each amended to read as follows:

(1) Except as otherwise provided in this section, any person earning apportionable income taxable under this chapter and also taxable in another state must, for the purpose of computing tax liability under this chapter, apportion to this state, in accordance with RCW 82.04.462, that portion of the person's apportionable income derived from business activities performed within this state.

(2) The department must by rule provide a method of apportioning the apportionable income of financial institutions, where such apportionable income

is taxable under RCW 82.04.290. The rule adopted by the department must, to the extent feasible, be consistent with the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, except that:

(a) The department's rule must provide for a single factor apportionment method based on the receipts factor; and

(b) The definition of "financial institution" contained in appendix A to the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions is advisory only.

(3) The department may by rule provide a method or methods of apportioning or allocating gross income derived from sales of telecommunications service and competitive telephone service taxed under this chapter, if the gross proceeds of sales subject to tax under this chapter do not fairly represent the extent of the taxpayer's income attributable to this state. The rule must provide for an equitable and constitutionally permissible division of the tax base.

(4) For purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Apportionable income" means gross income of the business generated from engaging in apportionable activities, including income received from apportionable activities performed outside this state if the income would be taxable under this chapter if received from activities in this state, less the exemptions and deductions allowable under this chapter. For purposes of this subsection, "apportionable activities" means only those activities taxed under:

(i) RCW 82.04.255;

(ii) RCW 82.04.260 (3), (5), (6), (7), (8), (9), (10), and (13);

(iii) RCW 82.04.280(1)(e);

(iv) RCW 82.04.285;

(v) RCW 82.04.286;

(vi) RCW 82.04.290;

(vii) RCW 82.04.2907;

(viii) RCW 82.04.2908;

(ix) RCW 82.04.263, but only to the extent of any activity that would be taxable under any of the provisions enumerated under (a)(i) through (viii) of this subsection (4) if the tax classification in RCW 82.04.263 did not exist; and

(x) RCW ((~~82.04.260(14) and~~)) 82.04.280(1)(a) <u>or exempted under section 2 of this act</u>, but only with respect to advertising.

(b)(i) "Taxable in another state" means that the taxpayer is subject to a business activities tax by another state on its income received from engaging in apportionable activities; or the taxpayer is not subject to a business activities tax by another state on its income received from engaging in apportionable activities, but any other state has jurisdiction to subject the taxpayer to a business activities tax on such income under the substantial nexus standards in RCW 82.04.067(1).

(ii) For purposes of this subsection (4)(b), "business activities tax" and "state" have the same meaning as in RCW 82.04.462.

Sec. 6. RCW 82.08.806 and 2020 c 139 s 16 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales, to a printer or publisher, of computer equipment, including repair parts and replacement parts for such equipment, when the computer equipment is used primarily in the printing or publishing of any printed material, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer equipment. This exemption applies only to computer equipment not otherwise exempt under RCW 82.08.02565.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section. This exemption is available only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

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

(a) "Computer" has the same meaning as in RCW 82.04.215.

(b) "Computer equipment" means a computer and the associated physical components that constitute a computer system, including monitors, keyboards, printers, modems, scanners, pointing devices, and other computer peripheral equipment, cables, servers, and routers. "Computer equipment" also includes digital cameras and computer software.

(c) "Computer software" has the same meaning as in RCW 82.04.215.

(d) "Primarily" means greater than fifty percent as measured by time.

(e) "Printer or publisher" means a person, as defined in RCW 82.04.030, who is subject to tax under RCW ((~~82.04.260(14) or~~)) 82.04.280(1)(a) or is eligible for the exemption under section 2 of this act.

(4) "Computer equipment" does not include computer equipment that is used primarily for administrative purposes including but not limited to payroll processing, accounting, customer service, telemarketing, and collection. If computer equipment is used simultaneously for administrative and nonadministrative purposes, the administrative use must be disregarded during the period of simultaneous use for purposes of determining whether the computer equipment is used primarily for administrative purposes.

NEW SECTION. **Sec. 7.** (1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter . . ., Laws of 2023 (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 to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals and to create or retain jobs, as indicated in RCW 82.32.808(2) (c) and (e).

(3) It is the legislature's specific public policy objective to protect and support local journalism.

(4) If a review finds that the tax preference accomplishes its goal of supporting local journalism across the state, measured by retaining 75 percent of the journalism jobs, local newspapers, and community-focused online news outlets based in Washington as of December 31, 2022, or if a review finds that

the tax preference enables locally based journalism outlets to continue to exist when compared to states that did not provide similar tax incentives, then the legislature intends to extend the expiration date of this tax preference.

(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 any data collected by the state.

(6) RCW 82.32.808(6) does not apply to the tax preference created in section 2 of this act.

NEW SECTION. **Sec. 8.** This act takes effect January 1, 2024.

NEW SECTION. **Sec. 9.** This act expires January 1, 2034.

Passed by the Senate March 31, 2023.
Passed by the House April 17, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 287

[Substitute House Bill 1138]

DROUGHT PREPAREDNESS—VARIOUS PROVISIONS

AN ACT Relating to drought preparedness; amending RCW 43.83B.415 and 90.86.030; reenacting and amending RCW 43.83B.430; and adding new sections to chapter 43.83B RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.83B.415 and 2020 c 168 s 5 are each amended to read as follows:

(1)(a) The department is authorized to issue grants to eligible public entities to reduce current or future hardship caused by water unavailability stemming from drought conditions. No single entity may receive more than ((~~twenty-five~~)) 25 percent of the total funds available. The department is not obligated to fund projects that do not provide sufficient benefit to alleviating hardship caused by drought or water unavailability. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs. Projects do not need to be completed while a drought emergency order under RCW 43.83B.405(2) is in effect.

(b) Except for projects for public water systems serving economically disadvantaged communities, the department may only fund up to ((~~fifty~~)) 50 percent of the total eligible cost of the project. Money used by applicants as a cash match may not originate from other state funds.

(c) For the purposes of this chapter, eligible public entities include only:

(i) Counties, cities, and towns;

(ii) Water and sewer districts formed under chapter 57.02 RCW;

(iii) Public utility districts formed under chapter 54.04 RCW;

(iv) Port districts formed under chapter 53.04 RCW;

(v) Conservation districts formed under chapter 89.08 RCW;

(vi) Irrigation districts formed under chapter 87.03 RCW;

(vii) Watershed management partnerships formed under RCW 39.34.200; and

(viii) Federally recognized tribes.

(2) Grants may be used to develop projects that enhance the ability of water users to effectively mitigate for the impacts of water unavailability arising from drought. Project applicants must demonstrate that the projects will increase their resiliency, preparedness, or ability to withstand drought conditions when they occur. Projects may include, but are not limited to:

(a) Creation of additional water storage;

(b) Implementation of source substitution projects;

(c) Development of alternative, backup, or emergency water supplies or interties;

(d) Installation of infrastructure or creation of educational programs that improve water conservation and efficiency or promote use of reclaimed water;

(e) Development or update of local drought contingency plans if not already required by state rules adopted under chapter 246-290 WAC;

(f) Mitigation of emergency withdrawals authorized under RCW 43.83B.410(1);

(g) Projects designed to mitigate for the impacts of water supply shortages on fish and wildlife; and

(h) Emergency construction or modification of water recreational facilities.

(3) During a drought emergency order pursuant to RCW 43.83B.405(2), the department shall prioritize funding for projects designed to relieve the immediate hardship caused by water unavailability.

Sec. 2. RCW 43.83B.430 and 2022 c 297 s 957 and 2022 c 296 s 7008 are each reenacted and amended to read as follows:

The state drought preparedness ((~~and response~~)) account is created in the state treasury. All receipts from appropriated funds designated for the account and all cost recovery revenues collected under RCW 43.83B.410(5) must be deposited into the account. Expenditures from the account may be used for drought planning and preparedness ((~~and response~~)) activities under this chapter, including grants issued under RCW 43.83B.415. During the 2021-2023 fiscal biennium, moneys in the account may be used for water banking pilot projects. Moneys in the account may be spent only after appropriation. During the 2021-2023 fiscal biennium, the legislature may appropriate moneys from the account for activities related to water banking.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.83B RCW to read as follows:

Upon the issuance of an order of drought emergency under RCW 43.83B.405(2), the state treasurer shall transfer from the general fund to the emergency drought response account created in section 4 of this act those amounts necessary to bring the balance of the emergency drought response account to $3,000,000, based upon the determination of the transfer amount from the office of financial management. The office of financial management must determine the fund balance of the emergency drought response account as of the previous fiscal month before the issuance of an order of drought emergency. The office of financial management must promptly notify the state treasurer and the department of the account balance and the necessary transfer amount once a determination is made. A transfer based on the determination by the office of financial management may be made only once every fiscal year.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.83B RCW to read as follows:

The emergency drought response account is created in the state treasury. All receipts from moneys received pursuant to section 3 of this act, moneys appropriated to the account by the legislature for the purpose of funding emergency drought response actions or moneys directed to the account from any other lawful source must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the costs of implementing the powers set forth in RCW 43.83B.410 through 43.83B.420 to provide relief for the immediate hardship caused by water unavailability while a drought emergency order issued pursuant to RCW 43.83B.405(2) is in effect. The department must, at a minimum, provide the director of the office of financial management, legislative fiscal committees, and the joint legislative committee on water supply during drought, established under RCW 90.86.010, with a close-out cost summary following the expiration of an emergency drought order during which expenditures were made from the account.

Sec. 5. RCW 90.86.030 and 2010 1st sp.s. c 7 s 122 are each amended to read as follows:

(1) The joint legislative committee on water supply during drought shall convene from time to time at the call of the chair when an advisory is in effect under RCW 43.83B.405(1), when a drought ((~~conditions~~)) emergency order under RCW 43.83B.405 is in effect, or when the chair determines, in consultation with the department of ecology, that it is likely that such an order will be issued within the next year.

(2) The committee may request and review information relating to water supply conditions in the state, and economic, environmental, and other impacts relating to decreased water supply being experienced or anticipated. The governor's executive water emergency committee, the department of ecology, and other state agencies with water management or related responsibilities shall cooperate in responding to requests from the committee.

(3) During drought conditions in which ((~~an~~)) a drought emergency order issued under RCW 43.83B.405(2) is in effect, the department of ecology shall provide to the committee no less than monthly a report describing drought response activities of the department and other state and federal agencies participating on the water supply availability committee. The report shall include information regarding applications for, and approvals and denials of emergency water withdrawals and temporary changes or transfers of, water rights under RCW 43.83B.410. The report must include information regarding grants applied for or issued under RCW 43.83B.415.

(4) The committee from time to time shall make recommendations to the senate and house of representatives on budgetary and legislative actions that will improve the state's drought response programs and planning.

Passed by the House April 17, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 288

[Second Substitute House Bill 1168]

PRENATAL SUBSTANCE EXPOSURE

AN ACT Relating to providing prevention services, diagnoses, treatment, and support for prenatal substance exposure; amending RCW 71.24.610; adding a new section to chapter 41.05 RCW; adding new sections to chapter 71.24 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

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

(1) Fetal alcohol spectrum disorders are lifelong physical, developmental, behavioral, and intellectual disabilities caused by prenatal alcohol exposure;

(2) According to the federal centers for disease control and prevention, fetal alcohol spectrum disorders affect as many as one in 20 people in the United States;

(3) The health care authority estimates that one percent of births, or approximately 870 children each year, are born with fetal alcohol spectrum disorders;

(4) In addition to alcohol use, other substances consumed during pregnancy may result in prenatal substance exposure affecting the physical, developmental, behavioral, and intellectual abilities of the exposed child;

(5) Washington has limited diagnostic capacity and currently lacks the capacity to diagnose and treat every child who needs support and treatment due to prenatal substance exposure;

(6) Without appropriate treatment and supports, children born with fetal alcohol spectrum disorders and other prenatal substance disorders are likely to experience adverse outcomes. According to current statistics, these children face adverse outcomes such as:

(a) 61 percent of children with fetal alcohol spectrum disorders are suspended or expelled from school by age 12;

(b) 90 percent of persons with fetal alcohol spectrum disorders develop comorbid mental health conditions; and

(c) 60 percent of youth with fetal alcohol spectrum disorders are involved in the justice system;

(7) Untreated and unsupported prenatal substance exposure results in higher costs for the state and worse outcomes for children and their families;

(8) Investing in prevention and earlier intervention, including diagnostic capacity, treatment, and services for children and supports for families and caregivers will improve school outcomes; and

(9) Effective prenatal substance exposure response requires effective and ongoing cross-agency strategic planning and coordination.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) By January 1, 2024, the authority, on behalf of clients or potential clients of the department of children, youth, and families as described in this subsection, shall contract with a provider with expertise in comprehensive prenatal substance exposure treatment and family supports to offer services to children over the age of three and families who are or have been involved in the child welfare system or who are at risk of becoming involved in the child welfare system. This contract shall maximize the number of families that can be served

through referrals by authority employees and other community partners in order to keep families together, reduce the number of placements, and prevent adverse outcomes for impacted children.

(2) By January 1, 2025, the authority, on behalf of clients or potential clients of the department of children, youth, and families as described in this subsection, shall contract with up to three providers across the state, in addition to the contracted provider in subsection (1) of this section, to offer comprehensive treatment services for prenatal substance exposure and family supports for children who were prenatally exposed to substances and who are, or have been, involved in the child welfare system.

(3) Comprehensive treatment and family supports must be trauma-informed and may include:

(a) Occupational, speech, and language therapy;

(b) Behavioral health counseling and caregiver counseling;

(c) Sensory processing support;

(d) Educational advocacy, psychoeducation, social skills support, and groups;

(e) Linkages to community resources; and

(f) Family supports and education, including the programs for parents, caregivers, and families recommended by the federal centers for disease control and prevention.

(4) The authority shall contract with the provider referenced in subsection (1) of this section to support the providers under contract in subsection (2) of this section by:

(a) Creating education and training programs for providers working with children who had prenatal substance exposure; and

(b) Offering ongoing coaching and support in creating a safe and healing environment, free from judgment, where families are supported through the challenges of care for children with prenatal substance exposure.

(5) The authority, in collaboration with the department of children, youth, and families, shall work with the contracted providers and families to collect relevant outcome data and provide a report on the expansion of services under the contracts and the outcomes experienced by persons receiving services under this section. The authority shall submit the report to the legislature with any recommendations related to improving availability of and access to services and ways to improve outcomes by June 1, 2028.

NEW SECTION. **Sec. 3.** A new section is added to chapter 71.24 RCW to read as follows:

(1) By June 1, 2024, the authority shall submit to the legislature recommendations on ways to increase access to diagnoses, treatment, services, and supports for children who were exposed to alcohol or other substances during pregnancy and their families and caregivers. In creating the recommendations, the authority shall consult with service providers, medical professionals with expertise in diagnosing and treating prenatal substance exposure, families of children who were exposed to alcohol or other substances during pregnancy, communities affected by prenatal substance exposure, and advocates.

(2) The recommendations adopted under subsection (1) of this section shall, at a minimum, address:

(a) Increasing the availability of evaluation and diagnosis services for children and youth for fetal alcohol spectrum disorders and other prenatal substance disorders, including assuring an adequate payment rate for the interdisciplinary team required for diagnosis and developing sufficient capacity in rural and urban areas so that every child is able to access diagnosis services; and

(b) Increasing the availability of treatment for fetal alcohol spectrum disorders and other prenatal substance disorders for all children and youth including all treatments and services recommended by the federal centers for disease control and prevention. The authority shall review all barriers to accessing treatment and make recommendations on removing those barriers, including recommendations related to the definition of medical necessity, prior authorization requirements for diagnosis and treatment services, and limitations of treatment procedure codes and insurance coverage.

NEW SECTION. **Sec. 4.** A new section is added to chapter 71.24 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the authority shall contract with a statewide nonprofit entity with expertise in fetal alcohol spectrum disorders and experience in supporting parents and caregivers to offer free support groups for individuals living with fetal alcohol spectrum disorders and their parents and caregivers.

Sec. 5. RCW 71.24.610 and 2018 c 201 s 4049 are each amended to read as follows:

The authority, the department of social and health services, the department ((~~of health~~)), the department of corrections, the department of children, youth, and families, and the office of the superintendent of public instruction shall execute an interagency agreement to ensure the coordination of identification, prevention, and intervention programs for children who have fetal alcohol exposure and other prenatal substance exposures, and for women who are at high risk of having children with fetal alcohol exposure or other prenatal substance exposures.

The interagency agreement shall provide a process for community advocacy groups to participate in the review and development of identification, prevention, and intervention programs administered or contracted for by the agencies executing this agreement.

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, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 13, 2023.

Passed by the Senate April 7, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

CHAPTER 289

[Engrossed Substitute House Bill 1260]

AGED, BLIND, OR DISABLED ASSISTANCE, PREGNANT WOMEN ASSISTANCE, AND ESSENTIAL NEEDS AND HOUSING SUPPORT PROGRAMS—VARIOUS PROVISIONS

AN ACT Relating to accelerating stability for people with a work-limiting disability or incapacity; and amending RCW 74.04.805, 74.62.005, and 74.62.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.04.805 and 2022 c 208 s 1 are each amended to read as follows:

(1) The department is responsible for determining eligibility for referral for essential needs and housing support under RCW 43.185C.220. Persons eligible for a referral are persons who:

(a) Have been determined to be eligible for the aged, blind, or disabled assistance program under RCW 74.62.030 or the pregnant women assistance program under RCW 74.62.030, or are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ((~~ninety~~)) 90 days. The standard for incapacity in this subsection, as evidenced by the ((~~ninety-day~~)) 90-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards;

(b) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law, or are victims of human trafficking as defined in RCW 74.04.005;

(c)(i) Have furnished the department with their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number must be made prior to authorization of benefits, and the social security number must be provided to the department upon receipt;

(ii) This requirement does not apply to victims of human trafficking as defined in RCW 74.04.005 if they have not been issued a social security number;

(d)(i) Have countable income as described in RCW 74.04.005 ((~~at or below four hundred twenty-eight dollars for a married couple or at or below three hundred thirty-nine dollars for a single individual~~)) that meets the standard established by the department, which shall not exceed 100 percent of the federal poverty level; or

(ii) Have income that meets the standard established by the department, who are eligible for the pregnant women assistance program;

(e) Do not have countable resources in excess of those described in RCW 74.04.005; and

(f) Are not eligible for federal aid assistance, other than basic food benefits transferred electronically and medical assistance.

(2) ((~~Recipients of aged, blind, or disabled assistance program benefits who meet other eligibility requirements in this section are eligible for a referral for essential needs and housing support services within funds appropriated for the department of commerce.~~

~~(3)~~)) Recipients of pregnant women assistance program benefits who meet other eligibility requirements in this section are eligible for referral for essential needs and housing support services, within funds appropriated for the

department of commerce, for ((~~twenty-four~~)) 24 consecutive months from the date the department determines pregnant women assistance program eligibility.

((~~(4)~~)) (3) The following persons are not eligible for a referral for essential needs and housing support:

(a) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause;

(b) Persons who refuse or fail without good cause to participate in substance use treatment if an assessment by a certified substance use disorder professional indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in substance use treatment, when needed outpatient treatment is not available to the person in the county of their residence ((~~or~~)), when needed inpatient treatment is not available in a location that is reasonably accessible for the person, or when the person is a parent or other relative personally providing care for a minor child or an incapacitated individual living in the same home as the person, and child care or day care would be necessary for the person to participate in substance use disorder treatment, and such care is not available; and

(c) Persons who are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or who are violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

((~~(5)~~)) (4) For purposes of determining whether a person is incapacitated from gainful employment under subsection (1) of this section:

(a) The department shall adopt by rule medical criteria for incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(b) The process implementing the medical criteria must involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

((~~(6)~~)) (5) For purposes of reviewing a person's continuing eligibility and in order to remain eligible for the program, persons who have been found to have an incapacity from gainful employment must demonstrate that there has been no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

((~~(7)~~)) (6) The department must review the cases of all persons who have received benefits under the essential needs and housing support program for twelve consecutive months, and at least annually after the first review, to determine whether they are eligible for the aged, blind, or disabled assistance program.

(7) The department shall share client data for individuals eligible for essential needs and housing support with the department of commerce and designated essential needs and housing support entities as required under RCW 43.185C.230.

Sec. 2. RCW 74.62.005 and 2011 1st sp.s. c 36 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Persons who have a long-term disability and apply for federal supplemental security income benefits should receive assistance while their application for federal benefits is pending((~~, with repayment from the federal government of state-funded income assistance paid through the aged, blind, or disabled assistance program~~));

(b) Persons who are incapacitated from gainful employment for an extended period, but who may not meet the level of severity of a long-term disability, are at increased risk of homelessness; and

(c) Persons who are homeless and suffering from significant medical impairments, mental illness, or ((~~chemical dependency~~)) substance use disorder face substantial barriers to successful participation in, and completion of, needed medical or behavioral health treatment services. Stable housing increases the likelihood of compliance with and completion of treatment.

(2) Through chapter 36, Laws of 2011 1st sp. sess., the legislature intends to:

(a) Terminate all components of the disability lifeline program created in 2010 and codified in RCW 74.04.005 and create new programs: (i) To provide financial grants through the aged, blind, ((~~and [or]~~)) or disabled assistance program and the pregnant women assistance program; and (ii) to provide services through the essential needs and housing support program; and

(b) Increase opportunities to utilize limited public funding, combined with private charitable and volunteer efforts to serve persons who are recipients of the benefits provided by the new programs created under chapter 36, Laws of 2011 1st sp. sess.

Sec. 3. RCW 74.62.030 and 2022 c 208 s 2 are each amended to read as follows:

(1)(a) The aged, blind, or disabled assistance program shall provide financial grants to persons in need who:

(i) Are not eligible to receive ((~~federal aid assistance, other than basic food benefits transferred electronically and medical assistance~~)) supplemental security income, refugee cash assistance, temporary assistance for needy families, or state family assistance benefits;

(ii) Meet the eligibility requirements of subsection (3) of this section; and

(iii) Are aged, blind, or disabled. For purposes of determining eligibility for assistance for the aged, blind, or disabled assistance program, the following definitions apply:

(A) "Aged" means age ((~~sixty-five~~)) 65 or older.

(B) "Blind" means statutorily blind as defined for the purpose of determining eligibility for the federal supplemental security income program.

(C) "Disabled" means likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history.

In determining whether a person is disabled, the department may rely on, but is not limited to, the following:

(I) A previous disability determination by the social security administration or the disability determination service entity within the department; or

(II) A determination that an individual is eligible to receive optional categorically needy medicaid as a disabled person under the federal regulations at 42 C.F.R. Parts 435, Secs. 201(a)(3) and 210.

(b) The following persons are not eligible for the aged, blind, or disabled assistance program:

(i) Persons who are not able to engage in gainful employment due primarily to a substance use disorder. These persons shall be referred to appropriate assessment, treatment, or shelter services. Referrals shall be made at the time of application or at the time of eligibility review. This subsection may not be construed to prohibit the department from granting aged, blind, or disabled assistance benefits to persons with a substance use disorder who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the aged, blind, or disabled assistance program; or

(ii) Persons for whom there has been a final determination of ineligibility based on age, blindness, or disability for federal supplemental security income benefits.

(c) Persons may receive aged, blind, or disabled assistance benefits and essential needs and housing program support under RCW 43.185C.220 concurrently while pending application for federal supplemental security income benefits. ((~~The monetary value of any aged, blind, or disabled assistance benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.~~)) Effective October 1, 2025, a person's receipt of supplemental security income received for the same period as aged, blind, or disabled program assistance as described in this section shall not be considered a debt due to the state and is not subject to recovery. However, the monetary value of aged, blind, or disabled cash assistance paid prior to October 1, 2025, that is duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due to the state and shall by operation of law be subject to recovery through all available legal remedies.

(2) The pregnant women assistance program shall provide financial grants to persons who:

(a) ((~~Are not eligible to receive federal aid assistance other than basic food benefits or medical assistance; and~~

~~(b)~~)) Are pregnant and in need, based upon the current income and resource standards of the federal temporary assistance for needy families program, but are ineligible for federal temporary assistance for needy families or state family assistance benefits for a reason other than failure to cooperate in program requirements; and

(((~~(c)~~))) (b) Meet the eligibility requirements of subsection (3) of this section.

(3) To be eligible for the aged, blind, or disabled assistance program under subsection (1) of this section or the pregnant women assistance program under subsection (2) of this section, a person must:

(a) Be a citizen or alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law, or be a victim of human trafficking as defined in RCW 74.04.005;

(b) Meet the income and resource standards described in RCW 74.04.805(1) (d) and (e);

(c)(i) Have furnished the department with their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(ii) This requirement does not apply to victims of human trafficking as defined in RCW 74.04.005 if they have not been issued a social security number;

(d) Not have refused or failed without good cause to participate in substance use treatment if an assessment by a certified substance use disorder professional indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in substance use treatment, when needed outpatient treatment is not available to the person in the county of their residence ((~~or~~)), when needed inpatient treatment is not available in a location that is reasonably accessible for the person, or when the person is a parent or other relative personally providing care for a minor child or an incapacitated individual living in the same home as the person, and child care or day care would be necessary for the person to participate in substance use disorder treatment, and such care is not available; and

(e) Not have refused or failed to cooperate in obtaining federal aid assistance, without good cause.

(4) Referrals for essential needs and housing support under RCW 43.185C.220 shall be provided to persons found eligible under RCW 74.04.805.

(5) No person may be considered an eligible individual for benefits under this section with respect to any month if during that month the person:

(a) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(b) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) The department must share client data for individuals eligible for essential needs and housing support with the department of commerce and designated essential needs and housing support entities as required under RCW 43.185C.230.

Passed by the House April 18, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 290

[Substitute House Bill 1271]

ORGAN TRANSPORT VEHICLES

AN ACT Relating to organ transport vehicles; amending RCW 68.64.010, 46.37.190, 46.37.380, 46.37.670, 46.61.210, 46.61.165, 47.52.025, 18.73.140, 18.73.081, and 18.73.030; adding a new section to chapter 46.04 RCW; and adding a new section to chapter 18.73 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04 RCW to read as follows:

"Organ transport vehicle" means any vehicle operated or contracted by an organ procurement organization as defined in RCW 68.64.010, and clearly and identifiably marked as such on all sides of the vehicle.

Sec. 2. RCW 68.64.010 and 2010 c 161 s 1156 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means an individual who is at least ((~~eighteen~~)) 18 years old.

(2) "Agent" means an individual:

(a) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift.

(5) "Disinterested witness" means a witness other than the spouse or state registered domestic partner, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under RCW 68.64.100.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the department of licensing to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the department of licensing.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is less than ((~~eighteen~~)) 18 years old.

(16) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. "Prospective donor" does not include an individual who has made a refusal.

(23) "Reasonable costs" include: (a) Programming and software installation and upgrades; (b) employee training that is specific to the organ and tissue donor registry or the donation program created in RCW 46.16A.090(2); (c) literature that is specific to the organ and tissue donor registry or the donation program created in RCW 46.16A.090(2); and (d) hardware upgrades or other issues important to the organ and tissue donor registry or the donation program created in RCW 46.16A.090(2) that have been mutually agreed upon in advance by the department of licensing and the Washington state organ procurement organizations.

(24) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(25) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(26) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) "Refusal" means a record created under RCW 68.64.060 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(28) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(29) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(31) "Time sensitive organ or tissue donor" means an organ being transported for human transplant or a tissue donor being transported for the purpose of recovery that is time sensitive but not an emergency.

(32) "Time urgent organ" means an organ being transported for human transplant that a member of the transplant team or a representative of the organ procurement organization declares an emergency.

(33) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(((~~(32)~~))) (34) "Tissue bank" means a person that is licensed to conduct business in this state, accredited, and regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(((~~(33)~~))) (35) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(((~~(34)~~))) (36) "Washington state organ procurement organization" means an organ procurement organization that has been designated by the United States department of health and human services to coordinate organ procurement activities for any portion of Washington state.

Sec. 3. RCW 46.37.190 and 2020 c 95 s 1 are each amended to read as follows:

(1) Every authorized emergency vehicle and organ transport vehicle shall, in addition to any other equipment and distinctive marking required by this chapter, be equipped with at least one lamp capable of displaying a red light visible from at least ((~~five hundred~~)) 500 feet in normal sunlight and a siren capable of giving an audible signal.

(2) Every school bus and private carrier bus shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a "stop" signal upon a background not less than ((~~fourteen~~)) 14 by ((~~eighteen~~)) 18 inches displaying the word "stop" in letters of distinctly contrasting colors not less than five and nine-tenths inches high, and shall further be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level and these lights shall have sufficient intensity to be visible at ((~~five hundred~~)) 500 feet in normal sunlight.

(3) Vehicles operated by public agencies whose law enforcement duties include the authority to stop and detain motor vehicles on the public highways of the state may be equipped with a siren and lights of a color and type designated by the state patrol for that purpose. The state patrol may prohibit the use of these sirens and lights on vehicles other than the vehicles described in this subsection.

(4) The lights described in this section shall not be mounted nor used on any vehicle other than a school bus, a private carrier bus, ((~~or~~)) an authorized emergency or law enforcement vehicle, or an organ transport vehicle.

(5) The use of the signal equipment described in this section and RCW 46.37.670, except the signal preemption devices used by public transit vehicles and department of transportation, city, or county maintenance vehicles that are not used in conjunction with emergency equipment, shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in RCW 46.61.210, 46.61.370, and 46.61.350.

Sec. 4. RCW 46.37.380 and 2010 c 8 s 9052 are each amended to read as follows:

(1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than ((~~two hundred~~)) 200 feet, but no horn or other warning device may emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his or her horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle may be equipped with nor may any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(3) It is permissible for any vehicle to be equipped with a theft alarm signal device so long as it is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal device may use a whistle, bell, horn, or other audible signal but shall not use a siren.

(4) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than ((~~five hundred~~)) 500 feet and of a type conforming to rules adopted by the state patrol, but the siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which latter events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of its approach.

(5) Any organ transport vehicle may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type conforming to rules adopted by the state patrol, but the siren shall not be used except when the vehicle is transporting a time urgent organ as defined in RCW 68.64.010, in which case the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of its approach.

Sec. 5. RCW 46.37.670 and 2005 c 183 s 2 are each amended to read as follows:

(1) Signal preemption devices shall not be installed or used on or with any vehicle other than an emergency vehicle authorized by the state patrol, an organ transport vehicle, a publicly owned law enforcement or emergency vehicle, a department of transportation, city, or county maintenance vehicle, or a public transit vehicle.

(2) This section does not apply to any of the following:

(a) A law enforcement agency and law enforcement personnel in the course of providing law enforcement services;

(b) A fire station or a firefighter in the course of providing fire prevention or fire extinguishing services;

(c) An emergency medical service or ambulance in the course of providing emergency medical transportation or ambulance services;

(d) An operator, passenger, or owner of an authorized emergency vehicle in the course of his or her emergency duties;

(e) A driver of an organ transport vehicle when a vehicle is transporting a time urgent organ as defined in RCW 68.64.010;

(f) Department of transportation, city, or county maintenance personnel while performing maintenance;

(((~~f~~))) (g) Public transit personnel in the performance of their duties. However, public transit personnel operating a signal preemption device shall have second degree priority to law enforcement personnel, firefighters, emergency medical personnel, and other authorized emergency vehicle personnel, when simultaneously approaching the same traffic control signal;

(((~~g~~))) (h) A mail or package delivery service or employee or agent of a mail or package delivery service in the course of shipping or delivering a signal preemption device;

(((~~h~~))) (i) An employee or agent of a signal preemption device manufacturer or retailer in the course of his or her employment in providing, selling, manufacturing, or transporting a signal preemption device to an individual or agency described in this subsection.

Sec. 6. RCW 46.61.210 and 1965 ex.s. c 155 s 32 are each amended to read as follows:

(1) Upon the immediate approach of an authorized emergency vehicle, or organ transport vehicle transporting a time urgent organ as defined in RCW 68.64.010, making use of audible and visual signals meeting the requirements of RCW 46.37.190, or of a police vehicle properly and lawfully making use of an audible signal only the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle or organ transport vehicle has passed, except when otherwise directed by a police officer.

(2) This section shall not operate to relieve the driver of an authorized emergency vehicle or organ transport vehicle from the duty to drive with due regard for the safety of all persons using the highway. To the greatest extent practicable, organ transport services as defined in RCW 18.73.030 shall notify the state patrol when an organ transport vehicle is operating under the provisions of this section.

Sec. 7. RCW 46.61.165 and 2019 c 467 s 3 are each amended to read as follows:

(1) The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of one or more of the following: (a) Public transportation vehicles; (b) motorcycles; (c) private motor vehicles carrying no fewer than a specified number of passengers; ((~~or~~)) (d) organ transport vehicles transporting a time urgent organ or a time sensitive organ or tissue donor as defined in RCW 68.64.010; or (e) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the

number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are authorized pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) The state department of transportation and the local authorities authorized to reserve all or any portion of any highway under their respective jurisdictions, for exclusive or preferential use, may prohibit the use of a high occupancy vehicle lane by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle lane fails to meet department of transportation standards and falls below ((~~forty-five~~)) 45 miles per hour at least ((~~ninety~~)) 90 percent of the time during the peak hours, as determined by the department of transportation or the local authority, whichever operates the facility.

(4) Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction. A person who commits a traffic infraction under this section is also subject to additional monetary penalties as defined in this subsection. The additional monetary penalties are separate from the base penalty, fees, and assessments issued for the traffic infraction and are intended to raise awareness, and improve the efficiency, of the high occupancy vehicle lane system.

(a) Whenever a person commits a traffic infraction under this section, an additional monetary penalty of ((~~fifty dollars~~)) $50 must be collected, and, in the case that a person has already committed a violation under this section within two years of committing this violation, then an additional ((~~one hundred fifty dollars~~)) $150 must be collected.

(b) Any time a person commits a traffic infraction under this section and is using a dummy, doll, or other human facsimile to make it appear that an additional person is in the vehicle, the person must be assessed a ((~~two hundred dollar~~)) $200 penalty, which is in addition to the penalties in (a) of this subsection.

(c) The monetary penalties under (a) and (b) of this subsection are additional, separate, and distinct penalties from the base penalty and are not

subject to fees or assessments specified in RCW 46.63.110, 3.62.090, and 2.68.040.

(d)(i) The additional penalties collected under (a) of this subsection must be distributed as follows:

(A) Twenty-five percent must be deposited into the congestion relief and traffic safety account created under RCW 46.68.398; and

(B) Seventy-five percent must be deposited into the motor vehicle fund created under RCW 46.68.070.

(ii) The additional penalty collected under (b) of this subsection must be deposited into the congestion relief and traffic safety account created under RCW 46.68.398.

(e) Violations committed under this section are excluded from eligibility as a moving violation for driver's license suspension under RCW 46.20.289 when a person subsequently fails to respond to a notice of traffic infraction for this moving violation, fails to appear at a requested hearing for this moving violation, violates a written promise to appear in court for a notice of infraction for this moving violation, or fails to comply with the terms of a notice of traffic infraction for this moving violation.

(5) Local authorities are encouraged to establish a process for private transportation providers, as described under subsections (1) and (3) of this section, to apply for the use of public transportation facilities reserved for the exclusive or preferential use of public transportation vehicles. The application and review processes should be uniform and should provide for an expeditious response by the local authority. Whenever practicable, local authorities should enter into agreements with such private transportation providers to allow for the reasonable use of these facilities.

(6) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department of transportation, and is offered by an employer for the benefit of its employees.

Sec. 8. RCW 47.52.025 and 2013 c 26 s 3 are each amended to read as follows:

(1) Highway authorities of the state, counties, and incorporated cities and towns, in addition to the specific powers granted in this chapter, shall also have, and may exercise, relative to limited access facilities, any and all additional authority, now or hereafter vested in them relative to highways or streets within their respective jurisdictions, and may regulate, restrict, or prohibit the use of such limited access facilities by various classes of vehicles or traffic. Such highway authorities may reserve any limited access facility or portions thereof, including designated lanes or ramps for the exclusive or preferential use of (a) public transportation vehicles, (b) privately owned buses, (c) motorcycles, (d) private motor vehicles carrying not less than a specified number of passengers, ((~~or~~)) (e) organ transport vehicles transporting a time urgent organ or a time sensitive organ or tissue donor as defined in RCW 68.64.010, or (f) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and

safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway facility or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all time or at specified times of day or on specified days.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are reserved pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) Highway authorities of the state, counties, or incorporated cities and towns may prohibit the use of limited access facilities by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle travel lane fails to meet department standards and falls below ((~~forty-five~~)) 45 miles per hour at least ((~~ninety~~)) 90 percent of the time during the peak hours for two consecutive months.

(4)(a) Local authorities are encouraged to establish a process for private transportation providers, described under subsections (1) and (3) of this section, to apply for the use of limited access facilities that are reserved for the exclusive or preferential use of public transportation vehicles.

(b) The process must provide a list of facilities that the local authority determines to be unavailable for use by the private transportation provider and must provide the criteria used to reach that determination.

(c) The application and review processes must be uniform and should provide for an expeditious response by the authority.

(5) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department, and is offered by an employer for the benefit of its employees.

Sec. 9. RCW 18.73.140 and 2000 c 93 s 19 are each amended to read as follows:

The secretary shall issue an ambulance, organ transport vehicle, or aid vehicle license for each vehicle so designated. The license shall be for a period of two years and may be reissued on expiration if the vehicle and its equipment meet requirements in force at the time of expiration of the license period. The license may be revoked if the ambulance, organ transport vehicle, or aid vehicle is found to be operating in violation of the regulations promulgated by the

department or without required equipment. The license shall be terminated automatically if the vehicle is sold or transferred to the control of any organization not currently licensed as an ambulance, organ transport vehicle, or aid vehicle service. The license number shall be prominently displayed on each vehicle.

Sec. 10. RCW 18.73.081 and 2022 c 136 s 3 are each amended to read as follows:

In addition to other duties prescribed by law, the secretary shall:

(1) Prescribe minimum requirements for:

(a) Ambulance, air ambulance, organ transport vehicles, and aid vehicles and equipment;

(b) Ambulance and aid services; and

(c) Minimum emergency communication equipment;

(2) Adopt procedures for services that fail to perform in accordance with minimum requirements;

(3) Prescribe minimum standards for first responder and emergency medical technician training including:

(a) Adoption of curriculum and period of certification;

(b) Procedures for provisional certification, certification, recertification, decertification, or modification of certificates;

(c) Adoption of requirements for ongoing training and evaluation, as approved by the county medical program director, to include appropriate evaluation for individual knowledge and skills. The first responder, emergency medical technician, or emergency medical services provider agency may elect a program of continuing education and a written and practical examination instead of meeting the ongoing training and evaluation requirements;

(d) Procedures for reciprocity with other states or national certifying agencies;

(e) Review and approval or disapproval of training programs; and

(f) Adoption of standards for numbers and qualifications of instructional personnel required for first responder and emergency medical technician training programs;

(4) Prescribe minimum requirements for liability insurance to be carried by licensed services except that this requirement shall not apply to public bodies; and

(5) Certify emergency medical program directors.

Sec. 11. RCW 18.73.030 and 2022 c 136 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) "Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

(2) "Aid service" means an organization that operates one or more aid vehicles.

(3) "Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) "Ambulance service" means an organization that operates one or more ambulances.

(6) "Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in this chapter.

(7) "Collaborative medical care" means medical treatment and care provided pursuant to agreements with local, regional, or state public health agencies to control and prevent the spread of communicable diseases which is rendered separately from emergency medical service.

(8) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

(9) "Council" means the local or regional emergency medical services and trauma care council as authorized under chapter 70.168 RCW.

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

(11) "Emergency medical service" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(12) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

(13) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081, under the responsible supervision and direction of an approved medical program director, which may include participating in an emergency services supervisory organization or a community assistance referral and education services program established under RCW 35.21.930, or providing collaborative medical care if the participation or provision of collaborative medical care does not exceed the participant's training and certification.

(14) "Emergency services supervisory organization" means an entity that is authorized by the secretary to use certified emergency medical services personnel to provide medical evaluation or initial treatment, or both, to sick or injured people, while in the course of duties with the organization for on-site medical care prior to any necessary activation of emergency medical services. Emergency services supervisory organizations include law enforcement agencies, disaster management organizations, search and rescue operations, diversion centers, and businesses with organized industrial safety teams.

(15) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

(16) "Organ transport service" means an organization that operates one or more organ transport vehicles.

(17) "Organ transport vehicle" has the same meaning as in section 1 of this act.

(18) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in

consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with statewide minimum standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

(((~~(17)~~))) (19) "Prehospital patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for emergency conditions. The protocols shall meet or exceed statewide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW.

(((~~(18)~~))) (20) "Secretary" means the secretary of the department of health.

(((~~(19)~~))) (21) "Stretcher" means a cart designed to serve as a litter for the transportation of a patient in a prone or supine position as is commonly used in the ambulance industry, such as wheeled stretchers, portable stretchers, stair chairs, solid backboards, scoop stretchers, basket stretchers, or flexible stretchers. The term does not include personal mobility aids that recline at an angle or remain at a flat position, that are owned or leased for a period of at least one week by the individual using the equipment or the individual's guardian or representative, such as wheelchairs, personal gurneys, or banana carts.

NEW SECTION. **Sec. 12.** A new section is added to chapter 18.73 RCW to read as follows:

(1) An organ transport service may not operate in the state of Washington without holding a license for such operation, issued by the secretary in consultation with the department of licensing.

(2) Organ transport services must ensure that personnel operating organ transport vehicles:

(a) Are at least 25 years of age;

(b) Are a current, previous, or retired police officer, firefighter, or EMS provider;

(c) Have a minimum of five years' experience operating a police, fire department, or emergency medical service vehicle under emergency conditions;

(d) Have passed a preemployment driver's license check showing no more than one moving vehicle violation in a rolling three-year period, with annual license reviews thereafter;

(e) Have passed a preemployment drug screen, with random drug screenings thereafter;

(f) Have passed state and national criminal background checks; and

(g) Have completed an emergency vehicle operators course and a defensive drivers course.

(3) An organ transport service shall maintain:

(a) Commercial general liability insurance in the amount of $5,000,000/$10,000,000 aggregate;

(b) Automobile liability insurance in the amount of $5,000,000; and

(c) An umbrella policy in the amount of $2,000,000.

(4) The license shall be valid for a period of two years and shall be renewed on request provided the holder has consistently complied with the regulations of the department and the department of licensing and provided also that the needs of the area served have been met satisfactorily. The license shall not be transferable and may be revoked if the service is found in violation of rules adopted by the department.

(5) The department, in consultation with the department of licensing, shall adopt rules under chapter 34.05 RCW to implement this section.

(6) Employment as a driver for organ transport vehicles does not add to the scope of practice for a current EMS provider and is not considered employment as an EMS provider.

(7) The secretary shall not establish fees for the license and renewals for an organ transport service or vehicle.

Passed by the House April 14, 2023.
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CHAPTER 291

[Second Substitute House Bill 1390]

CAMPUS DISTRICT ENERGY SYSTEMS—DECARBONIZATION PLANS

AN ACT Relating to district energy systems; amending RCW 19.27A.210; adding a new section to chapter 19.27A RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that building decarbonization is necessary to achieve the state's climate goals. Washington is a member of the national building performance standards coalition and is leading the nation with existing building performance standards. District energy policy could be used in coordination with any future statewide building performance standards policies to reduce commercial and large state-owned building emissions.

Due to the increased prevalence of extreme summer heat events, the ability to cool space at our state-run campus facilities, including correctional facilities, is an essential function of maintaining humane living, working, and learning conditions.

Upgrading existing district energy systems has great potential to increase efficiency, oftentimes more so than a building-by-building approach.

Upgrading and constructing district energy systems will employ skilled labor, including trades that have historically performed work on fossil fuel energy sources. This work will be an important part of a just transition to a clean energy economy.

For state-owned facilities connected to district energy systems, the legislature recognizes that it may take years, multiple budget cycles, and commitments as anchor customers to develop and upgrade campus district energy systems, but remains committed to steadily investing in plans developed

by these agencies and their selected providers. Having plans for multiyear customer commitments or spending programs will set the state and private sector up well for applying for federal grants and resources and to appropriately plan capital, operating, and climate commitment act funding for these investments over time.

NEW SECTION. **Sec. 2.** A new section is added to chapter 19.27A RCW to read as follows:

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

(a) "Campus" means a collection of buildings served by a district heating, cooling, water reuse, or power system.

(b) "Campus district energy system" means a district energy system that provides heating, cooling, or heating and cooling to a campus through a distributed system providing steam, hot water, or cool water to three or more buildings with more than 100,000 square feet of combined conditioned space, where the system and all connected buildings are owned by:

(i) A single entity;

(ii) A public-private partnership in which a private entity owns the systems providing heating, cooling, or heating and cooling to buildings owned by one public entity; or

(iii) Two private entities in which one private entity owns the connected buildings and another private entity owns the system providing heating, cooling, or heating and cooling to the buildings.

(c) "State campus district energy system" means a district energy system that provides heating, cooling, or heating and cooling to a campus through a distributed system providing steam, hot water, or cool water to five or more buildings with more than 100,000 square feet of combined conditioned space, where the system and all connected buildings are owned by the state of Washington or by a public-private partnership including one public buildings owner and one private entity.

(2)(a) The owner of a state campus district energy system must develop a decarbonization plan that provides a strategy for up to 15 years for the state campus district energy system. The department of commerce may approve a decarbonization plan that is based on a planning time frame longer than 15 years. The decarbonization plan must include:

(i) Mechanisms to replace fossil fuels in the heating plants, including a schedule for replacement;

(ii) An evaluation of possible options to partner with nearby sources and uses of waste heat and cooling;

(iii) An examination of opportunities to add buildings or other facilities to the system once it is decarbonized, a strategy to incentivize growth of a decarbonized system, and requirements for facilities joining the system; and

(iv) An evaluation, prioritization, and scheduled plan of reducing energy use through conservation efforts both at the central plant and in the buildings connected to district energy systems that results in meeting the campus energy use intensity target.

(b) The owner of a state campus district energy system is encouraged to include the following considerations in a decarbonization plan:

(i) Distribution network upgrades;

(ii) On-site energy storage facilities;

(iii) Space cooling for residential facilities;

(iv) Labor and workforce, including state registered apprenticeship utilization;

(v) Options for public-private partnerships;

(vi) Incorporation of industrial symbiosis projects or networks as described in chapter 308, Laws of 2021.

(c) The owner of a state campus district energy system must consult with the electric utility and the natural gas utility serving the site of the system during decarbonization plan development.

(3)(a) The owner of a state campus district energy system must begin developing a decarbonization plan by June 30, 2024, and must submit a final decarbonization plan to the department of commerce by June 30, 2025.

(b) Upon submittal to the department of commerce, decarbonization plans must be reviewed and approved by the department of commerce. The department of commerce may ask for a decarbonization plan to be revised and resubmitted if it does not meet standards as determined by the department of commerce.

(c) Every five years after June 30, 2025, the owner of a state campus district energy system must resubmit the decarbonization plan, along with a progress report on the implementation of the decarbonization plan, to the department of commerce.

(4) The department of commerce must provide a summary report on the decarbonization plans required in subsection (3) of this section to the governor and the appropriate committees of the legislature by December 1, 2025.

(5) The owner of a state campus district energy system is not required to meet the energy use intensity target in all the connected buildings that are heated, cooled, or heated and cooled by the system, or to conduct an investment grade audit, to otherwise comply with the state energy performance standard requirements in RCW 19.27A.200 through 19.27A.250 if the following conditions for an alternative compliance pathway are met:

(a) The owner of a state campus district energy system is implementing a department of commerce-approved decarbonization plan or has fully implemented a department of commerce-approved decarbonization plan for the state campus district energy system and all of its connected buildings that, when fully implemented, meets the energy use intensity target established for the campus at the time of required measurement and verification. The owner may apply for phased implementation through conditional compliance in accordance with requirements of the decarbonization plan;

(b) The owner of the state campus district energy system meets the benchmarking, energy management, and operations and maintenance planning requirements under RCW 19.27A.200 through 19.27A.250 for the state campus district energy system and all of its connected buildings; and

(c) The owner of a state campus district energy system submits a request to the department of commerce once during every five-year compliance cycle as part of documentation submitted in accordance with RCW 19.27A.210(7), and the department of commerce approves the request.

(6) The owner of a campus district energy system may submit a request to the department of commerce to opt-in to the process for approval of an

alternative compliance pathway as outlined in this section. If approved by the department of commerce, the campus district energy system must follow all of the requirements outlined for a state campus district energy system in this section, and the department of commerce must apply all authorities granted under this section for state campus district energy systems to such a campus district energy system.

Sec. 3. RCW 19.27A.210 and 2021 c 65 s 19 are each amended to read as follows:

(1)(a) By November 1, 2020, the department must establish by rule a state energy performance standard for covered commercial buildings.

(b) In developing energy performance standards, the department shall seek to maximize reductions of greenhouse gas emissions from the building sector. The standard must include energy use intensity targets by building type and methods of conditional compliance that include an energy management plan, operations and maintenance program, energy efficiency audits, and investment in energy efficiency measures designed to meet the targets. The department shall use ANSI/ASHRAE/IES standard 100-2018 as an initial model for standard development. The department must update the standard by July 1, 2029, and every five years thereafter. Prior to the adoption or update of the standard, the department must identify the sources of information it relied upon, including peer-reviewed science.

(2) In establishing the standard under subsection (1) of this section, the department:

(a) Must develop energy use intensity targets that are no greater than the average energy use intensity for the covered commercial building occupancy type with adjustments for unique energy using features. The department must also develop energy use intensity targets for additional property types eligible for incentives in RCW 19.27A.220. The department must consider regional and local building energy utilization data, such as existing energy star benchmarking data, in establishing targets for the standard. Energy use intensity targets must be developed for two or more climate zones and be representative of energy use in a normal weather year;

(b) May consider building occupancy classifications from ANSI/ASHRAE/IES standard 100-2018 and the United States environmental protection agency's energy star portfolio manager when developing energy use intensity targets;

(c) May implement lower energy use intensity targets for more recently built covered commercial buildings based on the state energy code in place when the buildings were constructed;

(d)(i) Must adopt a conditional compliance method that ensures that covered commercial buildings that do not meet the specified energy use intensity targets are taking action to achieve reduction in energy use, including investment criteria for conditional compliance that ensure that energy efficiency measures identified by energy audits are implemented to achieve a covered commercial building's energy use intensity target. The investment criteria must require that a building owner adopt an implementation plan to meet the energy intensity target or implement an optimized bundle of energy efficiency measures that provides maximum energy savings without resulting in a savings-to-investment ratio of less than 1.0, except as exempted in (d)(ii) of this subsection. The

implementation plan must be based on an investment grade energy audit and a life-cycle cost analysis that accounts for the period during which a bundle of measures will provide savings. The building owner's cost for implementing energy efficiency measures must reflect net cost, excluding any costs covered by utility or government grants. The implementation plan may exclude measures that do not pay for themselves over the useful life of the measure and measures excluded under (d)(ii) of this subsection. The implementation plan may include phased implementation such that the building owner is not required to replace a system or equipment before the end of the system or equipment's useful life;

(ii) For those buildings or structures that are listed in the state or national register of historic places; designated as a historic property under local or state designation law or survey; certified as a contributing resource with a national register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the national or state registers of historic places either individually or as a contributing building to a historic district by the state historic preservation officer or the keeper of the national register of historic places, no individual energy efficiency requirement need be met that would compromise the historical integrity of a building or part of a building;

(e) Must provide an alternative compliance pathway for an owner of a state campus district energy system, in accordance with section 2 of this act, and more broadly for the owner of any campus district energy system that is approved by the department to opt-in in accordance with section 2(6) of this act;

(f) Must guarantee that the owner of a state campus district energy system is not required to implement more than one energy management plan and more than one operations and maintenance plan for the campus;

(g) Must guarantee that a state campus district energy system, as defined in section 2 of this act, and all buildings connected to a state campus district energy system, are in compliance with any requirements for campus buildings to implement energy efficiency measures identified by an energy audit if:

(i) The energy audit demonstrates the energy savings from the state campus district energy system energy efficiency measures will be greater than the energy efficiency measures identified for the campus buildings; and

(ii) The state campus district energy system implements the energy efficiency measures.

(3) Based on records obtained from each county assessor and other available information sources, the department must create a database of covered commercial buildings and building owners required to comply with the standard established in accordance with this section.

(4) By July 1, 2021, the department must provide the owners of covered buildings with notification of compliance requirements.

(5) The department must develop a method for administering compliance reports from building owners.

(6) The department must provide a customer support program to building owners including, but not limited to, outreach and informational material, periodic training, phone and email support, and other technical assistance.

(7) The building owner of a covered commercial building must report the building owner's compliance with the standard to the department in accordance with the schedule established under subsection (8) of this section and every five

years thereafter. For each reporting date, the building owner must submit documentation to demonstrate that:

(a) The weather normalized energy use intensity of the covered commercial building measured in the previous calendar year is less than or equal to the energy use intensity target; or

(b) The covered commercial building has received conditional compliance from the department based on energy efficiency actions prescribed by the standard; or

(c) The covered commercial building is exempt from the standard by demonstrating that the building meets one of the following criteria:

(i) The building did not have a certificate of occupancy or temporary certificate of occupancy for all ((~~twelve~~)) 12 months of the calendar year prior to the building owner compliance schedule established under subsection (8) of this section;

(ii) The building did not have an average physical occupancy of at least ((~~fifty~~)) 50 percent throughout the calendar year prior to the building owner compliance schedule established under subsection (8) of this section;

(iii) The sum of the building's gross floor area minus unconditioned and semiconditioned spaces, as defined in the Washington state energy code, is less than ((~~fifty thousand~~)) 50,000 square feet;

(iv) The primary use of the building is manufacturing or other industrial purposes, as defined under the following use designations of the international building code: (A) Factory group F; or (B) high hazard group H;

(v) The building is an agricultural structure; or

(vi) The building meets at least one of the following conditions of financial hardship: (A) The building had arrears of property taxes or water or wastewater charges that resulted in the building's inclusion, within the prior two years, on a city's or county's annual tax lien sale list; (B) the building has a court appointed receiver in control of the asset due to financial distress; (C) the building is owned by a financial institution through default by a borrower; (D) the building has been acquired by a deed in lieu of foreclosure within the previous ((~~twenty-four~~)) 24 months; (E) the building has a senior mortgage subject to a notice of default; or (F) other conditions of financial hardship identified by the department by rule.

(8) A building owner of a covered commercial building must meet the following reporting schedule for complying with the standard established under this section:

(a) For a building with more than ((~~two hundred twenty thousand~~)) 220,000 gross square feet, June 1, 2026;

(b) For a building with more than ((~~ninety thousand~~)) 90,000 gross square feet but less than ((~~two hundred twenty thousand and one~~)) 220,001 gross square feet, June 1, 2027; and

(c) For a building with more than ((~~fifty thousand~~)) 50,000 gross square feet but less than ((~~ninety thousand and one~~)) 90,001 square feet, June 1, 2028.

(9)(a) The department may issue a notice of violation to a building owner for noncompliance with the requirements of this section. A determination of noncompliance may be made for any of the following reasons:

(i) Failure to submit a compliance report in the form and manner prescribed by the department;

(ii) Failure to meet an energy use intensity target or failure to receive conditional compliance approval;

(iii) Failure to provide accurate reporting consistent with the requirements of the standard established under this section; and

(iv) Failure to provide a valid exemption certificate.

(b) In order to create consistency with the implementation of the standard and rules adopted under this section, the department must reply and cite the section of law, code, or standard in a notice of violation for noncompliance with the requirements of this section when requested to do so by the building owner or the building owner's agent.

(10) The department is authorized to impose an administrative penalty upon a building owner for failing to submit documentation demonstrating compliance with the requirements of this section. The penalty may not exceed an amount equal to ((~~five thousand dollars~~)) $5,000 plus an amount based on the duration of any continuing violation. The additional amount for a continuing violation may not exceed a daily amount equal to ((~~one dollar~~)) $1 per year per gross square foot of floor area. The department may by rule increase the maximum penalty rates to adjust for the effects of inflation.

(11) Administrative penalties collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70A.35.030.

(12) The department must adopt rules as necessary to implement this section, including but not limited to:

(a) Rules necessary to ensure timely, accurate, and complete reporting of building energy performance for all covered commercial buildings;

(b) Rules necessary to enforce the standard established under this section; and

(c) Rules that provide a mechanism for appeal of any administrative penalty imposed by the department under this section.

(13) Upon request by the department, each county assessor must provide property data from existing records to the department as necessary to implement this section.

(14) By January 15, 2022, and each year thereafter through 2029, the department must submit a report to the governor and the appropriate committees of the legislature on the implementation of the state energy performance standard established under this section. The report must include information regarding the adoption of the ANSI/ASHRAE/IES standard 100-2018 as an initial model, the financial impact to building owners required to comply with the standard, the amount of incentives provided under RCW 19.27A.220 and 19.27A.230, and any other significant information associated with the implementation of this section.

Passed by the House April 14, 2023.

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CHAPTER 292

[Engrossed Second Substitute House Bill 1515]

MEDICAL ASSISTANCE—BEHAVIORAL HEALTH SERVICES—MANAGED CARE CONTRACTING AND PROCUREMENT

AN ACT Relating to contracting and procurement requirements for behavioral health services in medical assistance programs; amending RCW 74.09.871 and 71.24.861; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

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

(a) Medicaid enrollees in Washington are challenged with accessing needed behavioral health care. According to the Washington state department of social and health services, as of 2021, among medicaid enrollees with an identified mental health need, only 50 percent of adults and 66 percent of youth received treatment, while among medicaid enrollees with an identified substance use disorder need, only 37 percent of adults and 23 percent of youth received treatment. Furthermore, the national council for mental wellbeing's 2022 access to care survey found that 43 percent of adults in the United States who say they need mental health or substance use care did not receive that care, and they face numerous barriers to receiving needed treatment. Lack of necessary care can cause behavioral health conditions to deteriorate and crises to escalate, driving increasing use of intensive services such as inpatient care and involuntary treatment. As a result, the behavioral health system is reaching a crisis point in communities across the state.

(b) As of December 2022, 1,953,153 Washington residents rely on apple health managed care organizations to provide for their physical and behavioral health needs. During the integration of physical and behavioral health care pursuant to chapter 225, Laws of 2014, the health care authority most recently procured managed care services in 2018 and selected five managed care organizations to serve as Washington's apple health plans to provide for the physical and behavioral health care needs of medicaid enrollees. The health care authority has begun considering when to conduct a new procurement for managed care organizations, including an allowance for possible new entrants that do not currently serve Washington's medicaid population.

(c) Medicaid managed care procurement presents a need and an opportunity for the state to reset expectations for managed care organizations related to behavioral health services to ensure that Washington residents are being served by qualified and experienced health plans that can deliver on the access to care and quality of care that residents need and deserve.

(2) It is the intent of the legislature to seize this opportunity to address ongoing challenges Washington's medicaid enrollees face in accessing behavioral health care. The legislature intends to establish robust new standards defining the levels of medicaid-funded behavioral health service capacity and resources that are adequate to meet medicaid enrollees' treatment needs; to ensure that managed care organizations that serve Washington's medicaid enrollees have a track record of success in delivering a broad range of behavioral health care services to safety net populations; and to advance payment structures and provider network delivery models that improve equitable access, promote integration of care, and deliver on outcomes.

(3) The legislature finds that increased access to behavioral health services for American Indians and Alaska Natives, children in foster care, and the aged, blind, and disabled through the preservation and enhancement of the fee-for-service system is also critical to reducing health disparities among these vulnerable populations. The legislature also intends to increase access to timely and robust behavioral health services for American Indians and Alaska Natives, children in foster care, and the aged, blind, and disabled, in the fee-for-service system they access.

Sec. 2. RCW 74.09.871 and 2019 c 325 s 4006 are each amended to read as follows:

(1) Any agreement or contract by the authority to provide behavioral health services as defined under RCW 71.24.025 to persons eligible for benefits under medicaid, Title XIX of the social security act, and to persons not eligible for medicaid must include the following:

(a) Contractual provisions consistent with the intent expressed in RCW 71.24.015 and 71.36.005;

(b) Standards regarding the quality of services to be provided, including increased use of evidence-based, research-based, and promising practices, as defined in RCW 71.24.025;

(c) Accountability for the client outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025 and performance measures linked to those outcomes;

(d) Standards requiring behavioral health administrative services organizations and managed care organizations to maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the authority and to protect essential behavioral health system infrastructure and capacity, including a continuum of substance use disorder services;

(e) Provisions to require that medically necessary substance use disorder and mental health treatment services be available to clients;

(f) Standards requiring the use of behavioral health service provider reimbursement methods that incentivize improved performance with respect to the client outcomes established in RCW 71.24.435 and 71.36.025, integration of behavioral health and primary care services at the clinical level, and improved care coordination for individuals with complex care needs;

(g) Standards related to the financial integrity of the contracting entity. This subsection does not limit the authority of the authority to take action under a contract upon finding that a contracting entity's financial status jeopardizes the contracting entity's ability to meet its contractual obligations;

(h) Mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial deductions, termination of the contract, receivership, reprocurement of the contract, and injunctive remedies;

(i) Provisions to maintain the decision-making independence of designated crisis responders; and

(j) Provisions stating that public funds appropriated by the legislature may not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(2) At least six months prior to releasing a medicaid integrated managed care procurement, but no later than January 1, 2025, the authority shall adopt statewide network adequacy standards that are assessed on a regional basis for the behavioral health provider networks maintained by managed care organizations pursuant to subsection (1)(d) of this section. The standards shall require a network that ensures access to appropriate and timely behavioral health services for the enrollees of the managed care organization who live within the regional service area. At a minimum, these standards must address each behavioral health services type covered by the medicaid integrated managed care contract. This includes, but is not limited to: Outpatient, inpatient, and residential levels of care for adults and youth with a mental health disorder; outpatient, inpatient, and residential levels of care for adults and youth with a substance use disorder; crisis and stabilization services; providers of medication for opioid use disorders; specialty care; other facility-based services; and other providers as determined by the authority through this process. The authority shall apply the standards regionally and shall incorporate behavioral health system needs and considerations as follows:

(a) Include a process for an annual review of the network adequacy standards;

(b) Provide for participation from counties and behavioral health providers in both initial development and subsequent updates;

(c) Account for the regional service area's population; prevalence of behavioral health conditions; types of minimum behavioral health services and service capacity offered by providers in the regional service area; number and geographic proximity of providers in the regional service area; an assessment of the needs or gaps in the region; and availability of culturally specific services and providers in the regional service area to address the needs of communities that experience cultural barriers to health care including but not limited to communities of color and the LGBTQ+ community;

(d) Include a structure for monitoring compliance with provider network standards and timely access to the services;

(e) Consider how statewide services, such as residential treatment facilities, are utilized cross-regionally; and

(f) Consider how the standards would impact requirements for behavioral health administrative service organizations.

(3) Before releasing a medicaid integrated managed care procurement, the authority shall identify options that minimize provider administrative burden, including the potential to limit the number of managed care organizations that operate in a regional service area.

(4) The following factors must be given significant weight in any medicaid integrated managed care procurement process under this section:

(a) Demonstrated commitment and experience in serving low-income populations;

(b) Demonstrated commitment and experience serving persons who have mental illness, substance use disorders, or co-occurring disorders;

(c) Demonstrated commitment to and experience with partnerships with county and municipal criminal justice systems, housing services, and other critical support services necessary to achieve the outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025;

(d) The ability to provide for the crisis service needs of medicaid enrollees, consistent with the degree to which such services are funded;

(e) Recognition that meeting enrollees' physical and behavioral health care needs is a shared responsibility of contracted behavioral health administrative services organizations, managed care organizations, service providers, the state, and communities;

(((~~(e)~~))) (f) Consideration of past and current performance and participation in other state or federal behavioral health programs as a contractor; ((~~and~~

~~(f)~~)) (g) The ability to meet requirements established by the authority((~~.~~ ~~(3)~~));

(h) The extent to which a managed care organization's approach to contracting simplifies billing and contracting burdens for community behavioral health provider agencies, which may include but is not limited to a delegation arrangement with a provider network that leverages local, federal, or philanthropic funding to enhance the effectiveness of medicaid-funded integrated care services and promote medicaid clients' access to a system of services that addresses additional social support services and social determinants of health as defined in RCW 43.20.025;

(i) Demonstrated prior national or in-state experience with a full continuum of behavioral health services that are substantially similar to the behavioral health services covered under the Washington medicaid state plan, including evidence through past and current data on performance, quality, and outcomes; and

(j) Demonstrated commitment by managed care organizations to the use of alternative pricing and payment structures between a managed care organization and its behavioral health services providers, including provider networks described in subsection (b) of this section, and between a managed care organization and a behavioral administrative service organization, in any of their agreements or contracts under this section, which may include but are not limited to:

(i) Value-based purchasing efforts consistent with the authority's value-based purchasing strategy, such as capitated payment arrangements, comprehensive population-based payment arrangements, or case rate arrangements; or

(ii) Payment methods that secure a sufficient amount of ready and available capacity for levels of care that require staffing 24 hours per day, 365 days per year, to serve anyone in the regional service area with a demonstrated need for the service at all times, regardless of fluctuating utilization.

(5) The authority may use existing cross-system outcome data such as the outcomes and related measures under subsection (4)(c) of this section and chapter 338, Laws of 2013, to determine that the alternative pricing and payment structures referenced in subsection (4)(j) of this section have advanced community behavioral health system outcomes more effectively than a fee-for-service model may have been expected to deliver.

(6)(a) The authority shall urge managed care organizations to establish, continue, or expand delegation arrangements with a provider network that exists on the effective date of this section and that leverages local, federal, or philanthropic funding to enhance the effectiveness of medicaid-funded integrated care services and promote medicaid clients' access to a system of

services that addresses additional social support services and social determinants of health as defined in RCW 43.20.025. Such delegation arrangements must meet the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(b) The authority shall recognize and support, and may not limit or restrict, a delegation arrangement that a managed care organization and a provider network described in (a) of this subsection have agreed upon, provided such arrangement meets the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards. The authority may periodically review such arrangements for effectiveness according to the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(c) Managed care organizations and the authority may evaluate whether to establish or support future delegation arrangements with any additional provider networks that may be created after the effective date of this section, based on the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(7) The authority shall expand the types of behavioral health crisis services that can be funded with medicaid to the maximum extent allowable under federal law, including seeking approval from the centers for medicare and medicaid services for amendments to the medicaid state plan or medicaid state directed payments that support the 24 hours per day, 365 days per year capacity of the crisis delivery system when necessary to achieve this expansion.

(8) The authority shall, in consultation with managed care organizations, review reports and recommendations of the involuntary treatment act work group established pursuant to section 103, chapter 302, Laws of 2020 and develop a plan for adding contract provisions that increase managed care organizations' accountability when their enrollees require long-term involuntary inpatient behavioral health treatment and shall explore opportunities to maximize medicaid funding as appropriate.

(9) In recognition of the value of community input and consistent with past procurement practices, the authority shall include county and behavioral health provider representatives in the development of any medicaid integrated managed care procurement process. This shall include, at a minimum, two representatives identified by the association of county human services and two representatives identified by the Washington council for behavioral health to participate in the review and development of procurement documents.

(10) For purposes of purchasing behavioral health services and medical care services for persons eligible for benefits under medicaid, Title XIX of the social security act and for persons not eligible for medicaid, the authority must use regional service areas. The regional service areas must be established by the authority as provided in RCW 74.09.870.

((~~(4)~~)) (11) Consideration must be given to using multiple-biennia contracting periods.

((~~(5)~~)) (12) Each behavioral health administrative services organization operating pursuant to a contract issued under this section shall serve clients within its regional service area who meet the authority's eligibility criteria for mental health and substance use disorder services within available resources.

Sec. 3. RCW 71.24.861 and 2019 c 325 s 1047 are each amended to read as follows:

(1) The legislature finds that ongoing coordination between state agencies, the counties, and the behavioral health administrative services organizations is necessary to coordinate the behavioral health system. To this end, the authority shall establish a committee to meet quarterly to address systemic issues, including but not limited to the data-sharing needs of behavioral health system partners.

(2) The committee established in subsection (1) of this section must be convened by the authority, meet quarterly, and include representatives from:

(a) The authority;

(b) The department of social and health services;

(c) The department;

(d) The office of the governor;

(e) One representative from the behavioral health administrative services organization per regional service area; and

(f) One county representative per regional service area.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 13, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 293

[Substitute House Bill 1521]

WORKERS' COMPENSATION CLAIMS—DUTIES OF SELF-INSURED EMPLOYERS AND THIRD-PARTY ADMINISTRATORS

AN ACT Relating to industrial insurance self-insured employer and third-party administrator penalties and duties; amending RCW 51.48.080, 51.48.017, and 51.14.080; adding new sections to chapter 51.14 RCW; creating a new section; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.48.080 and 2020 c 277 s 6 are each amended to read as follows:

(1) Every person, firm, or corporation who violates or fails to obey, observe, or comply with any statutory provision of this ((~~act~~)) title or rule of the department promulgated under authority of this title, shall be subject to a penalty of not to exceed ((~~one thousand dollars~~)) $1,000.

(2) The department may, for a violation of section 3 of this act, assess a penalty not to exceed three times the penalties provided in subsection (1) of this section, including adjustments pursuant to RCW 51.48.095.

Sec. 2. RCW 51.48.017 and 2020 c 277 s 2 are each amended to read as follows:

(1) Every time a self-insurer unreasonably delays or refuses to pay benefits as they become due, the self-insurer shall pay a penalty not to exceed the greater of ((~~one thousand dollars~~)) $1,000 or ((~~twenty-five~~)) 25 percent of: (a) The

amount due or (b) each underpayment made to the claimant. For purposes of this section, "the amount due" means the total amount of payments due at the time of the calculation of the penalty.

(2) In making the determination of the penalty amount, the department shall weigh at least the following factors: The amount of any payment delayed, employer communication of the basis for or calculation of the payment, history or past practice of underpayments by the employer, department orders directing the payment, and any required adjustments to the amount of the payment.

(3) The director shall issue an order determining whether there was an unreasonable delay or refusal to pay benefits and the penalty amount owed within ((~~thirty~~)) 30 days upon the request of the claimant. Such an order shall conform to the requirements of RCW 51.52.050.

(4) The penalty shall accrue for the benefit of the claimant and shall be paid to the claimant with the benefits which may be assessed under this title.

(5) The department may, for a violation of section 3 of this act, assess a penalty not to exceed three times the penalties provided in subsection (1) of this section, including adjustments pursuant to RCW 51.48.095.

(6) This section applies to all requests for penalties made after September 1, 2020.

NEW SECTION. **Sec. 3.** A new section is added to chapter 51.14 RCW to read as follows:

(1) All self-insured municipal employers and self-insured private sector firefighter employers and their third-party administrators have a duty of good faith and fair dealing to workers relating to all aspects of this title. The duty of good faith requires fair dealing and equal consideration for the worker's interests.

(2) A self-insured municipal employer or self-insured private sector firefighter employer or their third-party administrator violates its duty to the worker if it coerces a worker to accept less than the compensation due under this title, or otherwise fails to act in good faith and fair dealing regarding its obligations under this title.

(3) The department shall adopt by rule additional applications of the duty of good faith and fair dealing as well as criteria for determining appropriate penalties for violations. In adopting a rule under this subsection, the department shall consider, among other factors, recognized and approved claim processing practices within the insurance industry, the department's own experience, and the industrial insurance and insurance laws and rules of this state.

(4) The department shall investigate each alleged violation of this section upon the filing of a written complaint or upon its own motion. After receiving notice and a request for a response from the department, the municipal employer or private sector firefighter employer or their third-party administrator may file a written response within 10 working days. If the municipal employer or private sector firefighter employer or their third-party administrator fails to file a timely response, the department shall issue an order based on available information.

(5) The department shall issue an order determining whether a violation of this section has occurred, in conformance with RCW 51.52.050, within 30 calendar days of receipt of a complete complaint or its own motion. An order finding that a violation has occurred must also order the municipal employer or private sector firefighter employer to pay a penalty of one to 52 times the

average weekly wage at the time of the order, depending upon the severity of the violation, which accrues for the benefit of the worker.

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

(a) "Municipal" means any counties, cities, towns, port districts, water-sewer districts, school districts, metropolitan park districts, fire districts, public hospital districts, regional fire protection service authorities, education service districts, or such other units of local government.

(b) "Private sector firefighter employer" means any private sector employer who employs over 50 firefighters, including supervisors, on a full-time, fully compensated basis as a firefighter of the employer's fire department, only with respect to their firefighters.

Sec. 4. RCW 51.14.080 and 1986 c 57 s 7 are each amended to read as follows:

(1) Certification of a self-insurer shall be withdrawn by the director upon one or more of the following grounds:

((~~(1)~~)) (a) The employer no longer meets the requirements of a self-insurer; or

((~~(2)~~)) (b) The self-insurer's deposit is insufficient; or

((~~(3)~~)) (c) The self-insurer intentionally or repeatedly induces employees to fail to report injuries, induces claimants to treat injuries in the course of employment as off-the-job injuries, persuades claimants to accept less than the compensation due, or unreasonably makes it necessary for claimants to resort to proceedings against the employer to obtain compensation; or

((~~(4)~~)) (d) The self-insurer habitually fails to comply with rules and regulations of the director regarding reports or other requirements necessary to carry out the purposes of this title; or

((~~(5)~~)) (e) The self-insurer habitually engages in a practice of arbitrarily or unreasonably refusing employment to applicants for employment or discharging employees because of nondisabling bodily conditions; or

((~~(6)~~)) (f) The self-insurer fails to pay an insolvency assessment under the procedures established pursuant to RCW 51.14.077; or

(g)(i) For a self-insured municipal employer, the self-insurer has been found to have violated the self-insurer's duty of good faith and fair dealing three times within a three-year period.

(ii) For purposes of determining whether there have been three violations within a three-year period, the director must use the date of the department's order. Any subsequent order of the department, board of industrial insurance appeals, or courts affirming a violation occurred relates back to the date of the department's order.

(iii) Errors or delays that are inadvertent or minor are not considered violations of good faith and fair dealing for purposes of this subsection (1)(g).

(2) The director may delay withdrawing the certification of the self-insured municipal employer while the employer has an enforceable contract with a licensed third-party administrator that may not be legally terminated. However, the self-insured municipal employer may not renew or extend the contract.

(3) For the purposes of this section, "municipal" has the same meaning as defined in section 3 of this act.

NEW SECTION. **Sec. 5.** A new section is added to chapter 51.14 RCW to read as follows:

Nothing in this act shall be interpreted as allowing a private cause of action outside of the original jurisdiction of the department to assess penalties and rights to appeal as provided in this title.

NEW SECTION. **Sec. 6.** This act applies to all claims regardless of the date of injury.

NEW SECTION. **Sec. 7.** This act takes effect July 1, 2024.

Passed by the House April 22, 2023.
Passed by the Senate April 20, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 294

[Second Substitute House Bill 1525]

WORKING CONNECTIONS CHILD CARE—ELIGIBILITY—APPRENTICESHIP PROGRAMS

AN ACT Relating to eligibility for working connections child care benefits for persons participating in state registered apprenticeships; amending RCW 43.216.136; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.216.136 and 2021 c 199 s 202 are each amended to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures established by the department and the standards established in this section intended to promote stability, quality, and continuity of early care and education programming.

(2) As recommended by P.L. 113-186, authorizations for the working connections child care subsidy are effective for twelve months beginning July 1, 2016.

(a) A household's 12-month authorization begins on the date that child care is expected to begin.

(b) If a newly eligible household does not begin care within 12 months of being determined eligible by the department, the household must reapply in order to qualify for subsidy.

(3)(a) The department shall establish and implement policies in the working connections child care program to allow eligibility for families with children who:

(i) In the last six months have:

(A) Received child protective services as defined and used by chapters 26.44 and 74.13 RCW;

(B) Received child welfare services as defined and used by chapter 74.13 RCW; or

(C) Received services through a family assessment response as defined and used by chapter 26.44 RCW;

(ii) Have been referred for child care as part of the family's case management as defined by RCW 74.13.020; and

(iii) Are residing with a biological parent or guardian.

(b) Families who are eligible for working connections child care pursuant to this subsection do not have to keep receiving services identified in this subsection to maintain twelve-month authorization.

(4)(a) Beginning July 1, 2021, and subject to the availability of amounts appropriated for this specific purpose, the department may not require an applicant or consumer to meet work requirements as a condition of receiving working connections child care benefits when the applicant or consumer is in a state registered apprenticeship program or is a full-time student of a community, technical, or tribal college and is enrolled in:

(i) A vocational education program that leads to a degree or certificate in a specific occupation; or

(ii) An associate degree program((~~; or~~

~~(iii) A registered apprenticeship program~~)).

(b) An applicant or consumer is a full-time student for the purposes of this subsection if ((~~he or she~~)) the applicant or consumer meets the college's definition of a full-time student.

(c) Nothing in this subsection is intended to change how applicants or consumers are prioritized when applicants or consumers are placed on a waitlist for working connections child care benefits.

(d) Subject to the availability of amounts appropriated for this specific purpose, the department may extend the provisions of this subsection (4) to full-time students who are enrolled in a bachelor's degree program or applied baccalaureate degree program.

(5)(a) An applicant or consumer is eligible to receive working connections child care benefits for the care of one or more eligible children for the first 12 months of the applicant's or consumer's enrollment in a state registered apprenticeship program under chapter 49.04 RCW when:

(i) The applicant or consumer's household annual income adjusted for family size does not exceed 75 percent of the state median income at the time of application, or, beginning July 1, 2027, does not exceed 85 percent of the state median income if funds are appropriated for the purpose of RCW 43.216.1368(4);

(ii) The child receiving care is: (A) Less than 13 years of age; or (B) less than 19 years of age and either has a verified special need according to department rule or is under court supervision; and

(iii) The household meets all other program eligibility requirements.

(b) The department must adopt a copayment model for benefits granted under this subsection, which must align with any copayment identified or adopted for households with the same income level under RCW 43.216.1368.

(6)(a) The department must extend the homeless grace period, as adopted in department rule as of January 1, 2020, from a four-month grace period to a twelve-month grace period.

(b) For the purposes of this section, "homeless" means being without a fixed, regular, and adequate nighttime residence as described in the federal

McKinney-Vento homeless assistance act (42 U.S.C. Sec. 11434a) as it existed on January 1, 2020.

(((~~(6)~~))) (7) For purposes of this section, "authorization" means a transaction created by the department that allows a child care provider to claim payment for care. The department may adjust an authorization based on a household's eligibility status.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 17, 2023.
Passed by the Senate April 8, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 295

[Substitute House Bill 1562]

FIREARMS—UNLAWFUL POSSESSION AND RESTORATION OF RIGHTS—VARIOUS PROVISIONS

AN ACT Relating to reducing the risks of lethality and other harm associated with gun violence, gender-based violence, and other types of violence by clarifying and updating laws relating to the unlawful possession of firearms and restoration of firearm rights; amending RCW 9.41.040, 9.41.047, 9.41.042, 13.40.160, 13.40.193, 13.40.265, 70.02.230, and 70.02.240; reenacting and amending RCW 9.41.010 and 13.40.0357; adding a new section to chapter 9.41 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that gun violence is a multifaceted public health problem that includes suicide, homicide, intimate partner violence, community violence, mass violence, nonfatal gunshot injuries and threats, with community violence and mass violence often committed by those with a history of domestic violence. National data indicates that in 2021, approximately 20,996 Americans died by firearm homicide and that 81 percent of all homicides are committed with a firearm. According to United States centers for disease control and prevention data, gun homicide disproportionately impacts people of color, especially Black males ages 15 to 34, who are 20 times more likely to die by gun violence than white males in the same age group. Black, Indigenous, and Latinx women are at higher risk for intimate partner violence-related homicide, and disparities in homicide rates are especially pronounced among women between 18 and 29 years of age. Nearly 60 percent of intimate partner violence-related homicides involve firearms.

(2) When perpetrators of intimate partner violence, including physical violence, sexual abuse, stalking, and psychological aggression of a current or former intimate partner, have access to firearms, women are especially at risk of serious or deadly harm. When an abusive partner or former partner owns or has access to a firearm, the likelihood of intimate partner homicide increases by a factor of five. Women in the United States are 21 times more likely to be killed with a gun than women in other high-income countries. There are about 4,500,000 women in America who have been threatened with a gun and nearly 1,000,000 women who have been shot or shot at by an intimate partner.

Perpetrators of intimate partner violence who have access to firearms also use them to coerce, control, and intimidate their partners.

(3) Many who seek protection from harm through the civil legal system, and obtain a protection order and an order to surrender and prohibit weapons, may not wish to engage the criminal legal system or to have the threat or violence they have experienced be prosecuted. According to the national intimate partner and sexual violence survey, more than one in two non-Hispanic Black women, American Indian, or Alaskan Native women, three in five multiracial non-Hispanic women, and two in five Hispanic women have been a victim of physical violence, rape, and/or stalking by a partner in their lifetime. But they are far less likely to report the crimes, due to distrust of the criminal legal system, intergenerational trauma, fear of police interaction, and concern about over incarceration. For many, the threat of violence continues over a long period of time, making it critical that access to firearms is appropriately limited when there are ongoing indicators of risk as reflected by a protection order, an order to surrender and prohibit weapons, or violations of these orders.

(4) An extensive body of research has identified specific risk factors that increase the likelihood of individuals engaging in future violence, including gun violence, and presenting further risk to public safety. The strongest predictor of future violence is prior violent behavior, including perpetration of domestic violence and violent misdemeanors. Other particularly strong risk factors for future violence include recent violation of a domestic violence protection order or other protection order; frequent risky alcohol use or certain types of controlled substance use; and cruelty to animals. Unlawful or reckless use, display, or brandishing of a firearm and recent acquisition of firearms, ammunition, or other deadly weapons are also risk factors for future violence, as is access to firearms in general. Multiple research studies have also shown that easy access to firearms by the general public increases risk of death by both homicide and suicide. Individuals returning from incarceration are a vulnerable population for whom these risks may be compounded. Furthermore, homicide and suicide (by any means) are leading causes of death for returning residents after they are released from prison, especially soon after release. Research provides important guidance regarding events that should result in temporary prohibition of firearm rights so that the laws regarding firearm possession and the restoration of firearm rights are grounded in risk assessment data to help protect public health and safety while upholding individual liberty. These changes are not intended to punish, but to provide a regulatory framework to help ensure the safety of those with a heightened risk of experiencing gun violence.

(5) The laws requiring certain individuals who are subject to protection orders, no-contact orders, or restraining orders to immediately relinquish dangerous weapons and concealed pistol licenses, and be prohibited from possessing or purchasing firearms, have been strengthened in recent years to help better address the risks that access to firearms by those individuals poses for survivors and their children. The legislature finds that similarly strengthening the laws regarding unlawful possession and restoration of firearm rights will protect these survivors, and their families and communities, from added risk of harm, and include their personal knowledge regarding possible violations of firearm prohibitions in the restoration petition process.

(6) The legislature also finds it would be helpful to refine statutory language that was at issue in the Washington state supreme court's decision in *State v. Dennis*, 191 Wn.2d 169 (2018). In that decision, the court held that absent more specific language in RCW 9.41.040 regarding the five-year waiting period before a person may petition to have the person's firearm rights restored, the requisite waiting period may include any conviction-free period of five or more consecutive years, even if a person had been convicted of a new crime within the five years immediately preceding the person's filing of a petition for restoration of firearm rights. The legislature intends to clarify that a person may not petition to have the person's firearm rights restored if the person has been convicted of a new prohibiting crime within the specified number of consecutive years immediately preceding the person's filing of a petition.

(7) The legislature also finds that it is important to recognize and remove barriers for individuals who have demonstrated that they have safely reintegrated into their communities.

Sec. 2. RCW 9.41.010 and 2022 c 105 s 2 and 2022 c 104 s 2 are each reenacted and amended to read as follows:

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

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Assemble" means to fit together component parts.

(3) "Barrel length" means` the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(4) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

(5) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(6) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(7) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(8) "Distribute" means to give out, provide, make available, or deliver a firearm or large capacity magazine to any person in this state, with or without consideration, whether the distributor is in-state or out-of-state. "Distribute" includes, but is not limited to, filling orders placed in this state, online or otherwise. "Distribute" also includes causing a firearm or large capacity magazine to be delivered in this state.

(9) "Family or household member" has the same meaning as in RCW 7.105.010.

(10) "Federal firearms dealer" means a licensed dealer as defined in 18 U.S.C. Sec. 921(a)(11).

(11) "Federal firearms importer" means a licensed importer as defined in 18 U.S.C. Sec. 921(a)(9).

(12) "Federal firearms manufacturer" means a licensed manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

(13) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(14) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(15) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(16) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. <u>For the purposes of RCW 9.41.040, "firearm" also includes frames and receivers.</u> "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(17)(a) "Frame or receiver" means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect the fire control components. Any such part identified with a serial number shall be presumed, absent an official determination by the bureau of alcohol, tobacco, firearms, and explosives or other reliable evidence to the contrary, to be a frame or receiver.

(b) For purposes of this subsection, "fire control component" means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: Hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

(18) "Gun" has the same meaning as firearm.

(19) "Import" means to move, transport, or receive an item from a place outside the territorial limits of the state of Washington to a place inside the territorial limits of the state of Washington. "Import" does not mean situations where an individual possesses a large capacity magazine when departing from, and returning to, Washington state, so long as the individual is returning to Washington in possession of the same large capacity magazine the individual transported out of state.

(20) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

(21) "Large capacity magazine" means an ammunition feeding device with the capacity to accept more than 10 rounds of ammunition, or any conversion kit, part, or combination of parts, from which such a device can be assembled if those parts are in possession of or under the control of the same person, but shall not be construed to include any of the following:

(a) An ammunition feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;

(b) A 22 caliber tube ammunition feeding device; or

(c) A tubular magazine that is contained in a lever-action firearm.

(22) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(23) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(24) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(25) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(26) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(27) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(28) "Manufacture" means, with respect to a firearm or large capacity magazine, the fabrication, making, formation, production, or construction of a firearm or large capacity magazine, by manual labor or by machinery.

(29) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(30) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(31) "Pistol" means any firearm with a barrel less than 16 inches in length, or is designed to be held and fired by the use of a single hand.

(32) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(33) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(34) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

(35)(a) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(b) "Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(36) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least 10 years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age 14;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; ((~~or~~))

(p) Any felony conviction under RCW 9.41.115; or

(q) Any felony charged under RCW 46.61.502(6) or 46.61.504(6).

(37) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than 26 inches.

(38) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than 26 inches.

(39) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(40) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

(41) "Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

(42)(a) "Unfinished frame or receiver" means a frame or receiver that is partially complete, disassembled, or inoperable, that: (i) Has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state; or (ii) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once finished or

completed, including without limitation products marketed or sold to the public as an 80 percent frame or receiver or unfinished frame or receiver.

(b) For purposes of this subsection:

(i) "Readily" means a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following: (A) Time, i.e., how long it takes to finish the process; (B) ease, i.e., how difficult it is to do so; (C) expertise, i.e., what knowledge and skills are required; (D) equipment, i.e., what tools are required; (E) availability, i.e., whether additional parts are required, and how easily they can be obtained; (F) expense, i.e., how much it costs; (G) scope, i.e., the extent to which the subject of the process must be changed to finish it; and (H) feasibility, i.e., whether the process would damage or destroy the subject of the process, or cause it to malfunction.

(ii) "Partially complete," as it modifies frame or receiver, means a forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a firearm.

(43) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(44) "Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

(45) "Conviction" or "convicted" means, whether in an adult court or adjudicated in a juvenile court, that a plea of guilty has been accepted or a verdict of guilty has been filed, or a finding of guilt has been entered, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, posttrial or post-fact-finding motions, and appeals. "Conviction" includes a dismissal entered after a period of probation, suspension, or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state.

(46) "Domestic violence" has the same meaning as provided in RCW 10.99.020.

(47) "Sex offense" has the same meaning as provided in RCW 9.94A.030.

Sec. 3. RCW 9.41.040 and 2022 c 268 s 28 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, accesses, has in ((~~his or her~~)) the person's custody, control, or possession, ((~~or has in his or her control~~)) or receives any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense ((~~as defined in this chapter~~)).

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession

of a firearm in the first degree and the person owns, accesses, has in ((~~his or her~~)) the person's custody, control, or possession, ((~~or has in his or her control~~)) or receives any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of ((~~any~~)):

(A) Any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section((~~, or any~~));

(B) Any of the following crimes when committed by one family or household member against another or by one intimate partner against another, as those terms are defined by the statutes in effect at the time of the commission of the crime, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 10.99.040 or any of the former RCW 26.50.060, 26.50.070, and 26.50.130);

(((~~(ii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of~~)) (C) Harassment when committed by one family or household member against another or by one intimate partner against another, as those terms are defined by the statutes in effect at the time of the commission of the crime, committed on or after June 7, 2018;

(((~~(iii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of a~~)) (D) Any of the following misdemeanor or gross misdemeanor crimes not included under (a)(i) (B) or (C) of this subsection, committed on or after the effective date of this section: Domestic violence (RCW 10.99.020); stalking; cyberstalking; cyber harassment, excluding cyber harassment committed solely pursuant to the element set forth in RCW 9A.90.120(1)(a)(i); harassment; aiming or discharging a firearm (RCW 9.41.230); unlawful carrying or handling of a firearm (RCW 9.41.270); animal cruelty in the second degree committed under RCW 16.52.207(1); or any prior offense as defined in RCW 46.61.5055(14) if committed within seven years of a conviction for any other prior offense under RCW 46.61.5055;

(E) A violation of the provisions of a protection order under chapter 7.105 RCW restraining the person or excluding the person from a residence, when committed by one family or household member against another or by one intimate partner against another, committed on or after July 1, 2022; or

(((~~(iv)~~))) (F) A violation of the provisions of an order to surrender and prohibit weapons, an extreme risk protection order, or the provisions of any other protection order or no-contact order not included under (a)(i) (B) or (E) of this subsection restraining the person or excluding the person from a residence, committed on or after the effective date of this section;

(ii) During any period of time that the person is subject to a ((~~court order~~)) protection order, no-contact order, or restraining order by a court issued under chapter 7.105, 9A.40, 9A.44, 9A.46, 9A.88, 10.99, 26.09, 26.26A, or 26.26B RCW or any of the former chapters 7.90, 7.92, 10.14, and 26.50 RCW that:

(A) Was issued after a hearing for which the person received actual notice, and at which the person had an opportunity to participate, whether the court then issues a full order or reissues a temporary order. If the court enters an agreed order by the parties without a hearing, such an order meets the requirements of this subsection;

(B) Restrains the person from harassing, stalking, or threatening the person protected under the order or child of the person or protected person, or others identified in the order, or engaging in other conduct that would place the protected person in reasonable fear of bodily injury to the protected person or child or others identified in the order; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the protected person or child or others identified in the order, or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the protected person or child or other persons that would reasonably be expected to cause bodily injury; or

(II) Includes an order under RCW 9.41.800 requiring the person to surrender all firearms and prohibiting the person from accessing, having in his or her custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, firearms;

(((~~(v)~~))) (iii) After having previously been involuntarily committed based on a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(((~~(vi)~~))) (iv) After dismissal of criminal charges based on incompetency to stand trial under RCW 10.77.088 when the court has made a finding indicating that the defendant has a history of one or more violent acts, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(((~~(vii)~~))) (v) If the person is under 18 years of age, except as provided in RCW 9.41.042; and/or

(((~~(viii)~~))) (vi) If the person is free on bond or personal recognizance pending trial((~~, appeal, or sentencing~~)) for a serious offense as defined in RCW 9.41.010.

(b) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) ((~~Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted," whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension, or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state.~~)) A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4)(((~~(a)~~))) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and

69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. ((~~Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least 20 years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:~~

~~(i) Under RCW 9.41.047; and/or~~

~~(ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or~~

~~(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.~~

~~(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection only at:~~

~~(i) The court of record that ordered the petitioner's prohibition on possession of a firearm; or~~

~~(ii) The superior court in the county in which the petitioner resides.~~))

(5) In addition to any other penalty provided for by law, if a person under the age of 18 years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within 24 hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

(8) A person may petition to restore the right to possess a firearm as provided in section 4 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 9.41 RCW to read as follows:

(1) A person who is prohibited from possession of a firearm under RCW 9.41.040 may not petition a court to have the person's right to possess a firearm restored if the person has been convicted or found not guilty by reason of insanity of: A felony sex offense; a class A felony; or a felony offense with a maximum sentence of at least 20 years.

(2) A person who is prohibited from possession of a firearm under RCW 9.41.040, and is not disqualified from petitioning for restoration of firearm rights under subsection (1) of this section or required to petition as provided for in RCW 9.41.047, may petition a superior court to have the person's right to possess a firearm restored.

(a) The person must have, for the period of consecutive years as specified below immediately preceding the filing of the petition, been in the community without being convicted or found not guilty by reason of insanity of any crime that prohibits the possession of a firearm, as follows:

(i) Five years for a conviction or finding of not guilty by reason of insanity for any felony offense, or any of the following gross misdemeanor or misdemeanor offenses:

(A) Domestic violence (RCW 10.99.020);

(B) Stalking;

(C) Cyberstalking;

(D) Cyber harassment, excluding cyber harassment committed solely pursuant to the element set forth in RCW 9A.90.120(1)(a)(i);

(E) Harassment;

(F) Aiming or discharging a firearm (RCW 9.41.230);

(G) Unlawful carrying or handling of a firearm (RCW 9.41.270);

(H) Animal cruelty in the second degree committed under RCW 16.52.207(1);

(I) Prior offense as defined by RCW 46.61.5055; or

(J) Violation of the provisions of an order to surrender and prohibit weapons, an extreme risk protection order, or the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence; and

(ii) Three years for a conviction or finding of not guilty by reason of insanity for one or more nonfelony crimes not covered in (a)(i) of this subsection.

(b) The person petitioning for firearm rights to be restored must also meet the following requirements:

(i) Has no pending charges for any felony, gross misdemeanor, or misdemeanor crime at the time the petition is filed or during the petition process;

(ii) Has completed all sentencing conditions, other than nonrestitution fines and fees, for each felony, gross misdemeanor, or misdemeanor conviction on which the prohibition was based, including all court-ordered treatment. The court shall waive the requirement of this subsection (2)(b)(ii) if the petitioner

provides verification from the sentencing court that relevant court records are no longer available, or attests to the unavailability of relevant records from other entities;

(iii) Has no prior felony convictions that would count as part of an offender score under RCW 9.94A.525 and has no out-of-state conviction for an offense which would disqualify the person from purchasing or possessing a firearm in the state of conviction. This determination shall be the responsibility of, and conducted by, the prosecuting attorney. An individual shall not be precluded from filing a petition to restore their firearm rights on the basis that they cannot verify whether they are disqualified from purchasing or possessing a firearm in the state of conviction; and

(iv) Has been determined by law enforcement based on available records and information as not subject to any other prohibition on possessing a firearm at the time the petition for the restoration of firearm rights is filed or during the petition process, and would be able to pass a background check to purchase a firearm if the petition to restore firearm rights is granted.

(3) The process for petitioning for restoration of firearm rights is as follows:

(a) The person must file a petition in a superior court in a county that entered any prohibition.

(b) At the time of filing the petition, the person must serve the prosecuting attorney in the county where the petition is filed with the petition.

(c) Upon receipt of service of the petition, the prosecuting attorney must take reasonable steps to notify the listed victim of a prohibiting crime and any person who previously obtained a full protection order or no-contact order against the person petitioning for restoration of firearm rights, if those persons have requested notification, of the procedure to provide a sworn written statement regarding the existence of any additional facts or information that they may have relevant to whether the person petitioning for restoration of firearm rights meets the requirements for restoration set forth in this section.

(d) The prosecuting attorney must verify in writing to the court that the prosecuting attorney has reviewed the relevant records, including written verification from Washington state patrol that Washington state patrol has conducted a records check of all civil and criminal records relevant to the prohibitors in RCW 9.41.040, and based on that information, whether there is sufficient evidence to determine that the person petitioning for restoration of firearm rights meets all the requirements set forth in RCW 9.41.040 and in this section to petition for and to be granted restoration of firearm rights.

(e) The court may set a hearing on the petition if the court determines additional information is necessary to determine whether the person meets the requirements for restoration of firearm rights.

(f) The court shall grant the petition only if the court finds that the person petitioning for restoration of firearm rights meets the requirements set forth in this section.

(g) The prosecuting attorney shall notify any victim who requests notification of the court's decision.

(4) When a person's right to possess a firearm has been restored under this section, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the Washington state patrol with a copy of the person's driver's

license or identicard, or comparable identification such as the person's name, address, and date of birth.

(5) By December 30, 2023, the administrative office of the courts shall develop and distribute standard forms for petitions and orders issued under this section and RCW 9.41.047, and update protection order and no-contact order forms to allow victims to opt out of the notification provided for in this section if they do not wish to be notified at the time of a petition for firearm rights restoration. Beginning January 1, 2024, courts shall use the standard forms for petitions and orders under this section and RCW 9.41.047, and the updated protection order and no-contact order forms.

(6) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of local government and its employees as provided in RCW 36.28A.010, are immune from civil liability for good faith conduct in the performance of the official's, employee's, or agency's duties under this section.

Sec. 5. RCW 9.41.047 and 2020 c 302 s 60 are each amended to read as follows:

(1)(a) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW for ((~~mental health~~)) treatment for a mental disorder, or at the time that charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the ((~~convicting or committing court, or~~)) court ((~~that dismisses charges,~~)) shall notify the person, orally and in writing, that the person must immediately surrender all firearms and any concealed pistol license and that the person may not possess a firearm unless ((~~his or her~~)) the person's right to do so is restored by ((~~a~~)) the superior court ((~~of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity~~)) that issued the order.

(b) The court shall forward within three judicial days after conviction, finding of not guilty by reason of insanity, entry of the commitment order, or dismissal of charges, a copy of the person's driver's license or identicard, or comparable information such as ((~~their~~)) the person's name, address, and date of birth, along with the date of conviction or commitment, or date charges are dismissed, to the department of licensing. When a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW, for ((~~mental health~~)) treatment for a mental disorder, or when a person's charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the court also shall forward, within three judicial days after entry of the commitment order, or dismissal of charges, a copy of the person's driver's license, or comparable information, along with the date of commitment or date charges are dismissed, to the national instant criminal background check system index, denied persons file, created by the federal Brady handgun violence prevention act (P.L. 103-159) and to the Washington state patrol. The petitioning party shall provide the court with the information required. If more than one commitment order is entered under one cause number, only one notification to

the department of licensing and the national instant criminal background check system is required.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the ((~~convicted or committed~~)) person((~~, or the person whose charges are dismissed based on incompetency to stand trial,~~)) has a concealed pistol license. If the person ((~~does have~~)) has a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for ((~~mental health~~)) treatment for a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, or by reason of having been detained under RCW 71.05.150 or 71.05.153, or because the person's charges were dismissed based on incompetency to stand trial under RCW 10.77.088 and the court made a finding that the person has a history of one or more violent acts, may, upon discharge, petition the superior court to have his or her right to possess a firearm restored, except that a person found not guilty by reason of insanity may not petition for restoration of the right to possess a firearm until one year after discharge.

(b) The petition must be brought in the superior court that ordered the involuntary commitment or dismissed the charges based on incompetency to stand trial or the superior court of the county in which the petitioner resides.

(c) Except as provided in (d) and (e) of this subsection, ((~~the court shall restore the petitioner's right to possess a firearm~~)) firearm rights shall be restored if the ((~~petitioner~~)) person petitioning for restoration of firearm rights proves by a preponderance of the evidence that:

(i) The ((~~petitioner~~)) person petitioning for restoration of firearm rights is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The ((~~petitioner~~)) person petitioning for restoration of firearm rights has successfully managed the condition related to the commitment or detention or incompetency;

(iii) The ((~~petitioner~~)) person petitioning for restoration of firearm rights no longer presents a substantial danger to ((~~himself or herself,~~)) self or to the public; and

(iv) The symptoms related to the commitment or detention or incompetency are not reasonably likely to recur.

(d) If a preponderance of the evidence in the record supports a finding that the person petitioning ((~~the court~~)) for restoration of firearm rights has engaged in violence and that it is more likely than not that the person will engage in violence after ((~~his or her~~)) the person's right to possess a firearm is restored, the person petitioning for restoration of firearm rights shall bear the burden of proving by clear, cogent, and convincing evidence that ((~~he or she~~)) the person does not present a substantial danger to the safety of others.

(e) If the ((~~petitioner~~)) person seeking restoration of firearm rights seeks restoration after having been detained under RCW 71.05.150 or 71.05.153, the state shall bear the burden of proof to show, by a preponderance of the evidence, that the ((~~petitioner~~)) person does not meet the restoration criteria in (c) of this subsection.

(f) When a person's right to possess a firearm has been restored under this subsection, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the department of licensing with a copy of the person's driver's license or identicard, or comparable identification such as ((~~their~~)) the person's name, address, and date of birth, the health care authority, and the national instant criminal background check system index, denied persons file. In the case of a person whose right to possess a firearm has been suspended for six months as provided in RCW 71.05.182, the department of licensing shall forward notification of the restoration order to the licensing authority, which, upon receipt of such notification, shall immediately lift the suspension, restoring the license.

(4) No person who has been found not guilty by reason of insanity may petition a court for restoration of the right to possess a firearm unless the person meets the requirements for the restoration of the right to possess a firearm under ((~~RCW 9.41.040(4)~~)) section 4 of this act.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

CONFORMING AMENDMENTS TO CORRECT CITATIONS

Sec. 7. RCW 9.41.042 and 2022 c 268 s 33 are each amended to read as follows:

RCW 9.41.040(2)(a)(((~~(vii)~~))) (v) shall not apply to any person under the age of eighteen years who is:

(1) In attendance at a hunter's safety course or a firearms safety course;

(2) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;

(3) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;

(4) Hunting or trapping under a valid license issued to the person under Title 77 RCW;

(5) In an area where the discharge of a firearm is permitted, is not trespassing, and the person either: (a) Is at least fourteen years of age, has been issued a hunter safety certificate, and is using a lawful firearm other than a pistol; or (b) is under the supervision of a parent, guardian, or other adult approved for the purpose by the parent or guardian;

(6) Traveling with any unloaded firearm in the person's possession to or from any activity described in subsection (1), (2), (3), (4), or (5) of this section;

(7) On real property under the control of his or her parent, other relative, or legal guardian and who has the permission of the parent or legal guardian to possess a firearm;

(8) At his or her residence and who, with the permission of his or her parent or legal guardian, possesses a firearm for the purpose of exercising the rights specified in RCW 9A.16.020(3); or

(9) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty.

Sec. 8. RCW 13.40.0357 and 2022 c 268 s 37 and 2022 c 16 s 9 are each reenacted and amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
	Arson and Malicious Mischief	
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
	Assault and Other Crimes Involving Physical Harm	
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	A
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
	Burglary and Trespass	
B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
	Drugs	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Cannabis <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	Firearms and Weapons	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(((~~(vii)~~))) (v))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	Homicide	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	Kidnapping	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
C+	Unlawful Imprisonment (9A.40.040)	D+
	Obstructing Governmental Operation	
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	Public Disturbance	
C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 (9A.44.040)	B+
B++	Rape 2 (9A.44.050) committed at age 14 or under	B+
A-	Rape 2 (9A.44.050) committed at age 15 through age 17	B+
C+	Rape 3 (9A.44.060)	D+
B++	Rape of a Child 1 (9A.44.073) committed at age 14 or under	B+
A-	Rape of a Child 1 (9A.44.073) committed at age 15	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B++	Child Molestation 1 (9A.44.083) committed at age 14 or under	B+
A-	Child Molestation 1 (9A.44.083) committed at age 15 through age 17	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.132)	D
	Theft, Robbery, Extortion, and Forgery	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200) committed at age 15 or under	B+
A++	Robbery 1 (9A.56.200) committed at age 16 or 17	A
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	Other	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1[1] (9A.76.110)	C
C	Escape 2[1] (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)[2]	V

[1]Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

[2]If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

OPTION A

JUVENILE OFFENDER SENTENCING GRID

STANDARD RANGE

A+++	129 to 260 weeks for all category A++ offenses
A++	180 weeks to age 21 for all category A+ offenses
A+	103-129 weeks for all category A offenses

OPTION A

JUVENILE OFFENDER SENTENCING GRID

STANDARD RANGE

	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR ADJUDICATIONS		0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B
SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2)(a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

OR

OPTION C
CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION D
MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

Sec. 9. RCW 13.40.160 and 2022 c 268 s 38 are each amended to read as follows:

(1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsection (2), (3), (4), (5), or (6) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsection (2), (3), (4), (5), or (6) of this section.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(3) If a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court may impose the special sex offender disposition alternative under RCW 13.40.162.

(4) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose the disposition alternative under RCW 13.40.165.

(5) If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under RCW 13.40.167.

(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under RCW 13.40.169 may impose the disposition alternative under RCW 13.40.169.

(7) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(2)(a)(((~~(vii)~~)) (v) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(8) RCW 13.40.308 shall govern the disposition of any juvenile adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, possession of a stolen motor vehicle as defined under RCW 9A.56.068, taking a motor vehicle without permission in the first degree under RCW 9A.56.070, and taking a motor vehicle without permission in the second degree under RCW 9A.56.075.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(10) Except as provided under subsection (3), (4), (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

(11) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

Sec. 10. RCW 13.40.193 and 2022 c 268 s 39 are each amended to read as follows:

(1) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040(2)(a)(((~~(vii)~~))) (v), the court shall impose a minimum disposition of ten days of confinement. If the offender's standard range of disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition. The offender shall not be released until the offender has served a minimum of ten days in confinement.

(2)(a) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040, the disposition must include a requirement that the respondent participate in a qualifying program as described in (b) of this subsection, when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(b) For purposes of this section, "qualifying program" means an aggression replacement training program, a functional family therapy program, or another program applicable to the juvenile firearm offender population that has been identified as evidence-based or research-based and cost-beneficial in the current

list prepared at the direction of the legislature by the Washington state institute for public policy.

(3) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. If the offender or an accomplice was armed with a firearm when the offender committed any felony other than possession of a machine gun or bump-fire stock, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun or bump-fire stock in a felony, the following periods of total confinement must be added to the sentence: (a) Except for (b) of this subsection, for a class A felony, six months; for a class B felony, four months; and for a class C felony, two months; (b) for any violent offense as defined in RCW 9.94A.030, committed by a respondent who is sixteen or seventeen years old at the time of the offense, a period of twelve months. The additional time shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357.

(4)(a) If the court finds that the respondent who is sixteen or seventeen years old and committed the offense of robbery in the first degree, drive-by shooting, rape of a child in the first degree, burglary in the first degree, or any violent offense as defined in RCW 9.94A.030 and was armed with a firearm, and the court finds that the respondent's participation was related to membership in a criminal street gang or advancing the benefit, aggrandizement, gain, profit, or other advantage for a criminal street gang, a period of three months total confinement must be added to the sentence. The additional time must be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357 and must be served consecutively with any other sentencing enhancement.

(b) For the purposes of this section, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(5) When a disposition under this section would effectuate a manifest injustice, the court may impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(6) Any term of confinement ordered pursuant to this section shall run consecutively to any term of confinement imposed in the same disposition for other offenses.

Sec. 11. RCW 13.40.265 and 2022 c 268 s 40 are each amended to read as follows:

(1) If a juvenile thirteen years of age or older is found by juvenile court to have committed an offense while armed with a firearm or an offense that is a violation of RCW 9.41.040(2)(a)(((~~(vii)~~))) (v) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense while armed with a firearm, first unlawful possession of a firearm offense, or first offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(3) If the offense is the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the date the juvenile turns seventeen or one year after the date judgment was entered, whichever is later.

Sec. 12. RCW 70.02.230 and 2022 c 268 s 43 are each amended to read as follows:

(1) The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies may not be disclosed except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid authorization under RCW 70.02.030.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, including Indian health care providers, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated crisis responder;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts, including tribal courts, as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is

pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) By a care coordinator under RCW 71.05.585 or 10.77.175 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.05 or 10.77 RCW;

(l) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(m) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(n) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(((~~(v)~~))) (iii). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(((~~(v)~~))) (iii);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(o) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced

registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(p) Pursuant to lawful order of a court, including a tribal court;

(q) To qualified staff members of the department, to the authority, to behavioral health administrative services organizations, to managed care organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(r) Within the mental health service agency or Indian health care provider facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(s) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, or substance use disorder of persons who are under the supervision of the department;

(t) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, or substance use disorder of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

(u) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(v)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider, including an Indian health care provider, who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility, health care provider, or Indian health care provider, or is under an agreement pursuant to the federal health insurance portability and accountability act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)(v) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

(w) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (v) of this subsection;

(x) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required

by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(y) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(z) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(aa) To all current treating providers, including Indian health care providers, of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(bb)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, ..., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

(cc) To any person if the conditions in RCW 70.02.205 are met;

(dd) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450; or

(ee) To a tribe or Indian health care provider to carry out the requirements of RCW 71.05.150(6).

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for a substance use disorder, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of

the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

Sec. 13. RCW 70.02.240 and 2022 c 268 s 44 are each amended to read as follows:

The fact of admission and all information and records related to mental health services obtained through inpatient or outpatient treatment of a minor under chapter 71.34 RCW must be kept confidential, except as authorized by this section or under RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265. Confidential information under this section may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To the minor, the minor's parent, including those acting as a parent as defined in RCW 71.34.020 for purposes of family-initiated treatment, and the minor's attorney, subject to RCW 13.50.100;

(4) To the courts as necessary to administer chapter 71.34 RCW;

(5) By a care coordinator under RCW 71.34.755 or 10.77.175 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 or 10.77 RCW;

(6) By a care coordinator under RCW 71.34.755 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 RCW;

(7) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;

(8) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(9) To the secretary of social and health services and the director of the health care authority for assistance in data collection and program evaluation or research so long as the secretary or director, where applicable, adopts rules for the conduct of such evaluation and research. The rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, ..., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/ . . . . . ";

(10) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(11) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(12) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(13) Upon the death of a minor, to the minor's next of kin;

(14) To a facility in which the minor resides or will reside;

(15) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)((~~(v)~~)) (iii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)((~~(v)~~)) (iii);

(c) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(16) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth

by the director of the health care authority or the secretary of the department of social and health services, where applicable. The fact of admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

(17) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and 74.09.295;

(18) Pursuant to a lawful order of a court.

Passed by the House April 13, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 296

[House Bill 1564]

OVER-THE-COUNTER SEXUAL ASSAULT KITS

AN ACT Relating to prohibiting the sale of over-the-counter sexual assault kits; adding a new section to chapter 5.70 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** It is the intent of the legislature to support survivors of sexual offenses through building victim-centered, trauma-informed systems that promote successful investigations and prosecutions of sexual offenses. Thorough and professional investigations, including preservation of forensic evidence, are imperative and a fundamental component in achieving these outcomes. At-home sexual assault test kits create false expectations and harm the potential for successful investigations and prosecutions. The sale of over-the-counter sexual assault kits may prevent survivors from receiving accurate information about their options and reporting processes; from obtaining access to appropriate and timely medical treatment and follow up; and from connecting to their community and other vital resources.

NEW SECTION. **Sec. 2.** A new section is added to chapter 5.70 RCW to read as follows:

(1) For purposes of this section:

(a) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place situated in Washington state where a health care provider provides health care to patients.

(b) "Health care provider" means a person licensed, certified, or otherwise authorized or permitted by law, in Washington state, to provide health care in the ordinary course of business or practice of a profession, and includes a health care facility.

(c) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

(d) "Sexual assault kit" means a product with which evidence of sexual assault is collected.

(2) A person may not sell, offer for sale, or otherwise make available a sexual assault kit:

(a) That is marketed or otherwise presented as over-the-counter, at-home, or self-collected or in any manner that indicates that the sexual assault kit may be used for the collection of evidence of sexual assault other than by law enforcement or a health care provider; or

(b) If the person intends, knows, or reasonably should know that the sexual assault kit will be used for the collection of evidence of sexual assault other than by law enforcement or a health care provider.

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

Passed by the House April 13, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 297

[Engrossed Substitute House Bill 1576]
DENTIST AND DENTAL HYGIENIST COMPACT

AN ACT Relating to the dentist and dental hygienist compact; adding a new chapter to Title 18 RCW; and providing a contingent effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act shall be known and cited as the dentist and dental hygienist compact. The purposes of this compact are to facilitate the interstate practice of dentistry and dental hygiene and improve public access to dentistry and dental hygiene services by providing dentists and dental hygienists licensed in a participating state the ability to practice in participating states in which they are not licensed. The compact does this by establishing a pathway for dentists and dental hygienists licensed in a participating state to obtain a compact privilege that authorizes them to practice in another participating state in which they are not licensed. The compact enables participating states to protect the public health and safety with respect to the practice of such dentists and dental hygienists, through the state's authority to regulate the practice of dentistry and dental hygiene in the state. The compact:

(1) Enables dentists and dental hygienists who qualify for a compact privilege to practice in other participating states without satisfying burdensome and duplicative requirements associated with securing a license to practice in those states;

(2) Promotes mobility and addresses workforce shortages through each participating state's acceptance of a compact privilege to practice in that state;

(3) Increases public access to qualified, licensed dentists and dental hygienists by creating a responsible, streamlined pathway for licensees to practice in participating states;

(4) Enhances the ability of participating states to protect the public's health and safety;

(5) Does not interfere with licensure requirements established by a participating state;

(6) Facilitates the sharing of licensure and disciplinary information among participating states;

(7) Requires dentists and dental hygienists who practice in a participating state pursuant to a compact privilege to practice within the scope of practice authorized in that state;

(8) Extends the authority of a participating state to regulate the practice of dentistry and dental hygiene within its borders to dentists and dental hygienists who practice in the state through a compact privilege;

(9) Promotes the cooperation of participating states in regulating the practice of dentistry and dental hygiene within those states; and

(10) Facilitates the relocation of military members and their spouses who are licensed to practice dentistry or dental hygiene.

NEW SECTION. **Sec. 2.** As used in this compact, unless the context requires otherwise, the following definitions shall apply:

(1) "Active military member" means any individual in full-time duty status in the armed forces of the United States including members of the national guard and reserve.

(2) "Adverse action" means disciplinary action or encumbrance imposed on a license or compact privilege by a state licensing authority.

(3) "Alternative program" means a nondisciplinary monitoring or practice remediation process applicable to a dentist or dental hygienist approved by a state licensing authority of a participating state in which the dentist or dental hygienist is licensed. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues are referred in lieu of adverse action.

(4) "Clinical assessment" means an examination or process, required for licensure as a dentist or dental hygienist as applicable, that provides evidence of clinical competence in dentistry or dental hygiene.

(5) "Commissioner" means the individual appointed by a participating state to serve as the member of the commission for that participating state.

(6) "Compact" means this dentist and dental hygienist compact.

(7) "Compact privilege" means the authorization granted by a remote state to allow a licensee from a participating state to practice as a dentist or dental hygienist in a remote state.

(8) "Continuing professional development" means a requirement, as a condition of license renewal, to provide evidence of successful participation in educational or professional activities relevant to practice or area of work.

(9) "Criminal background check" means the submission of fingerprints or other biometric-based information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. Sec. 20.3(d) from the federal bureau of investigation and the state's criminal history record repository as defined in 28 C.F.R. Sec. 20.3(f).

(10) "Data system" means the commission's repository of information about licensees, including but not limited to examination, licensure, investigative, compact privilege, adverse action, and alternative program information.

(11) "Dental hygienist" means an individual who is licensed by a state licensing authority to practice dental hygiene.

(12) "Dentist" means an individual who is licensed by a state licensing authority to practice dentistry.

(13) "Dentist and dental hygienist compact commission" or "commission" means a joint government agency established by this compact comprised of each state that has enacted the compact and a national administrative body comprised of a commissioner from each state that has enacted the compact.

(14) "Encumbered license" means a license that a state licensing authority has limited in any way other than through an alternative program.

(15) "Executive board" means the chair, vice chair, secretary, treasurer, and any other commissioners as may be determined by commission rule or bylaw.

(16) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of dentistry or dental hygiene, as applicable, in a state.

(17) "License" means current authorization by a state, other than authorization pursuant to a compact privilege or other privilege, for an individual to practice as a dentist or dental hygienist in that state.

(18) "Licensee" means an individual who holds an unrestricted license from a participating state to practice as a dentist or dental hygienist in that state.

(19) "Model compact" means the model for the dentist and dental hygienist compact on file with the council of state governments or other entity as designated by the commission.

(20) "Participating state" means a state that has enacted the compact and been admitted to the commission in accordance with the provisions herein and commission rules.

(21) "Qualifying license" means a license that is not an encumbered license issued by a participating state to practice dentistry or dental hygiene.

(22) "Remote state" means a participating state where a licensee who is not licensed as a dentist or dental hygienist is exercising or seeking to exercise the compact privilege.

(23) "Rule" means a regulation promulgated by an entity that has the force of law.

(24) "Scope of practice" means the procedures, actions, and processes a dentist or dental hygienist licensed in a state is permitted to undertake in that state and the circumstances under which the licensee is permitted to undertake those procedures, actions, and processes. Such procedures, actions, and processes and the circumstances under which they may be undertaken may be established through means including, but not limited to, statutes, regulations, case law, and other processes available to the state licensing authority or other government agency.

(25) "Significant investigative information" means information, records, and documents received or generated by a state licensing authority pursuant to an investigation for which a determination has been made that there is probable cause to believe that the licensee has violated a statute or regulation that is

considered more than a minor infraction for which the state licensing authority could pursue adverse action against the licensee.

(26) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practices of dentistry and dental hygiene.

(27) "State licensing authority" means an agency or other entity of a state that is responsible for the licensing and regulation of dentists or dental hygienists.

NEW SECTION. **Sec. 3.** (1) In order to join the compact and thereafter continue as a participating state, a state must:

(a) Enact a compact that is not materially different from the model compact as determined in accordance with commission rules;

(b) Participate fully in the commission's data system;

(c) Have a mechanism in place for receiving and investigating complaints about its licensees and license applicants;

(d) Notify the commission, in compliance with the terms of the compact and commission rules, of any adverse action or the availability of significant investigative information regarding a licensee and license applicant;

(e) Fully implement a criminal background check requirement, within a time frame established by commission rule, by receiving the results of a qualifying criminal background check;

(f) Comply with the commission rules applicable to a participating state;

(g) Accept the national board examinations of the joint commission on national dental examinations or another examination accepted by commission rule as a licensure examination;

(h) Accept for licensure that applicants for a dentist license graduate from a predoctoral dental education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs, leading to the doctor of dental surgery or doctor of dental medicine degree;

(i) Accept for licensure that applicants for a dental hygienist license graduate from a dental hygiene education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs;

(j) Require for licensure that applicants successfully complete a clinical assessment;

(k) Have continuing professional development requirements as a condition for license renewal; and

(l) Pay a participation fee to the commission as established by commission rule.

(2) Providing alternative pathways for an individual to obtain an unrestricted license does not disqualify a state from participating in the compact.

(3) When conducting a criminal background check the state licensing authority shall:

(a) Consider that information in making a licensure decision;

(b) Maintain documentation of completion of the criminal background check and background check information to the extent allowed by state and federal law; and

(c) Report to the commission whether it has completed the criminal background check and whether the individual was granted or denied a license.

(4) A licensee of a participating state who has a qualifying license in that state and does not hold an encumbered license in any other participating state shall be issued a compact privilege in a remote state in accordance with the terms of the compact and commission rules. If a remote state has a jurisprudence requirement a compact privilege will not be issued to the licensee unless the licensee has satisfied the jurisprudence requirement.

NEW SECTION. **Sec. 4.** (1) To obtain and exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

(a) Have a qualifying license as a dentist or dental hygienist in a participating state;

(b) Be eligible for a compact privilege in any remote state in accordance with subsections (4), (7), and (8) of this section;

(c) Submit to an application process whenever the licensee is seeking a compact privilege;

(d) Pay any applicable commission and remote state fees for a compact privilege in the remote state;

(e) Meet any jurisprudence requirement established by a remote state in which the licensee is seeking a compact privilege;

(f) Have passed a national board examination of the joint commission on national dental examinations or another examination accepted by commission rule;

(g) For a dentist, have graduated from a predoctoral dental education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs, leading to the doctor of dental surgery or doctor of dental medicine degree;

(h) For a dental hygienist, have graduated from a dental hygiene education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs;

(i) Have successfully completed a clinical assessment for licensure;

(j) Report to the commission adverse action taken by any nonparticipating state when applying for a compact privilege and, otherwise, within 30 days from the date the adverse action is taken;

(k) Report to the commission when applying for a compact privilege the address of the licensee's primary residence and thereafter immediately report to the commission any change in the address of the licensee's primary residence; and

(l) Consent to accept service of process by mail at the licensee's primary residence on record with the commission with respect to any action brought against the licensee by the commission or a participating state, and consent to accept service of a subpoena by mail at the licensee's primary residence on record with the commission with respect to any action brought or investigation conducted by the commission or a participating state.

(2) The licensee must comply with the requirements of subsection (1) of this section to maintain the compact privilege in the remote state. If those requirements are met, the compact privilege will continue as long as the licensee maintains a qualifying license in the state through which the licensee applied for the compact privilege and pays any applicable compact privilege renewal fees.

(3) A licensee providing dentistry or dental hygiene in a remote state under the compact privilege shall function within the scope of practice authorized by the remote state for a dentist or dental hygienist licensed in that state.

(4) A licensee providing dentistry or dental hygiene pursuant to a compact privilege in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, by adverse action revoke or remove a licensee's compact privilege in the remote state for a specific period of time and impose fines or take any other necessary actions to protect the health and safety of its citizens. If a remote state imposes an adverse action against a compact privilege that limits the compact privilege, that adverse action applies to all compact privileges in all remote states. A licensee whose compact privilege in a remote state is removed for a specified period of time is not eligible for a compact privilege in any other remote state until the specific time for removal of the compact privilege has passed and all encumbrance requirements are satisfied.

(5) If a license in a participating state is an encumbered license, the licensee shall lose the compact privilege in a remote state and shall not be eligible for a compact privilege in any remote state until the license is no longer encumbered.

(6) Once an encumbered license in a participating state is restored to good standing, the licensee must meet the requirements of subsection (1) of this section to obtain a compact privilege in a remote state.

(7) If a licensee's compact privilege in a remote state is removed by the remote state, the individual shall lose or be ineligible for the compact privilege in any remote state until the following occur:

(a) The specific period of time for which the compact privilege was removed has ended; and

(b) All conditions for removal of the compact privilege have been satisfied.

(8) Once the requirements of subsection (7) of this section have been met, the licensee must meet the requirements in subsection (1) of this section to obtain a compact privilege in a remote state.

NEW SECTION. **Sec. 5.** An active military member and their spouse shall not be required to pay to the commission for a compact privilege the fee otherwise charged by the commission. If a remote state chooses to charge a fee for a compact privilege, it may choose to charge a reduced fee or no fee to an active military member and their spouse for a compact privilege.

NEW SECTION. **Sec. 6.** (1) A participating state in which a licensee is licensed shall have exclusive authority to impose adverse action against the qualifying license issued by that participating state.

(2) A participating state may take adverse action based on the significant investigative information of a remote state, so long as the participating state follows its own procedures for imposing adverse action.

(3) Nothing in this compact shall override a participating state's decision that participation in an alternative program may be used in lieu of adverse action

and that such participation shall remain nonpublic if required by the participating state's laws. Participating states must require licensees who enter any alternative program in lieu of discipline to agree not to practice pursuant to a compact privilege in any other participating state during the term of the alternative program without prior authorization from such other participating state.

(4) Any participating state in which a licensee is applying to practice or is practicing pursuant to a compact privilege may investigate actual or alleged violations of the statutes and regulations authorizing the practice of dentistry or dental hygiene in any other participating state in which the dentist or dental hygienist holds a license or compact privilege.

(5) A remote state shall have the authority to:

(a) Take adverse actions as set forth in section 4(4) of this act against a licensee's compact privilege in the state;

(b) In furtherance of its rights and responsibilities under the compact and the commission's rules, issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a state licensing authority in a participating state for the attendance and testimony of witnesses or the production of evidence from another participating state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located; and

(c) If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

(6)(a) In addition to the authority granted to a participating state by its dentist or dental hygienist licensure act or other applicable state law, a participating state may jointly investigate licensees with other participating states.

(b) Participating states shall share any significant investigative information, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(7)(a) After a licensee's compact privilege in a remote state is terminated, the remote state may continue an investigation of the licensee that began when the licensee had a compact privilege in that remote state.

(b) If the investigation yields what would be significant investigative information had the licensee continued to have a compact privilege in that remote state, the remote state shall report the presence of such information to the data system as required by section 8(2)(f) of this act as if it was significant investigative information.

NEW SECTION. **Sec. 7.** (1) The compact participating states hereby create and establish a joint government agency whose membership consists of all participating states that have enacted the compact. The commission is an instrumentality of the participating states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 11(1) of this act.

(2)(a) Each participating state shall have and be limited to one commissioner selected by that participating state's state licensing authority or, if the state has more than one state licensing authority, selected collectively by the state licensing authorities.

(b) The commissioner shall be a member or designee of such authority or authorities.

(c) The commission may by rule or bylaw establish a term of office for commissioners and may by rule or bylaw establish term limits.

(d) The commission may recommend to a state licensing authority or authorities, as applicable, removal or suspension of an individual as the state's commissioner.

(e) A participating state's state licensing authority or authorities, as applicable, shall fill any vacancy of its commissioner on the commission within 60 days of the vacancy.

(f) Each commissioner shall be entitled to one vote on all matters that are voted upon by the commission.

(g) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, videoconference, or other similar electronic means.

(3) The commission shall have the following powers:

(a) Establish the fiscal year of the commission;

(b) Establish a code of conduct and conflict of interest policies;

(c) Adopt rules and bylaws;

(d) Maintain its financial records in accordance with the bylaws;

(e) Meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;

(f) Initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing authority to sue or be sued under applicable law shall not be affected;

(g) Maintain and certify records and information provided to a participating state as the authenticated business records of the commission, and designate a person to do so on the commission's behalf;

(h) Purchase and maintain insurance and bonds;

(i) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a participating state;

(j) Conduct an annual financial review;

(k) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(l) As set forth in the commission rules, charge a fee to a licensee for the grant of a compact privilege in a remote state and thereafter, as may be established by commission rule, charge the licensee a compact privilege renewal fee for each renewal period in which that licensee exercises or intends to exercise the compact privilege in that remote state. Nothing herein shall be construed to prevent a remote state from charging a licensee a fee for a compact privilege or renewals of a compact privilege, or a fee for the jurisprudence

requirement if the remote state imposes such a requirement for the grant of a compact privilege;

(m) Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(n) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

(o) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(p) Establish a budget and make expenditures;

(q) Borrow money;

(r) Appoint committees, including standing committees, which may be composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(s) Provide and receive information from, and cooperate with, law enforcement agencies;

(t) Elect a chair, vice chair, secretary, treasurer, and such other officers of the commission as provided in the commission's bylaws;

(u) Establish and elect an executive board;

(v) Adopt and provide to the participating states an annual report;

(w) Determine whether a state's enacted compact is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(x) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(4)(a) All meetings of the commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(b) Notwithstanding (a) of this subsection, the commission may convene an emergency public meeting by providing at least 24 hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rule making under section 9(12) of this act. The commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

(c) Notice of all commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, videoconference, or other electronic means, the notice shall include the mechanism for access to the meeting through such means.

(d) The commission may convene in a closed, nonpublic meeting for the commission to receive legal advice or to discuss:

(i) Noncompliance of a participating state with its obligations under the compact;

(ii) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(iii) Current or threatened discipline of a licensee or compact privilege holder by the commission or by a participating state's licensing authority;

(iv) Current, threatened, or reasonably anticipated litigation;

(v) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(vi) Accusing any person of a crime or formally censuring any person;

(vii) Trade secrets or commercial or financial information that is privileged or confidential;

(viii) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(ix) Investigative records compiled for law enforcement purposes;

(x) Information related to any investigative reports prepared by, on behalf of, or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(xi) Legal advice;

(xii) Matters specifically exempted from disclosure to the public by federal or participating state law; and

(xiii) Other matters as promulgated by the commission by rule.

(e) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(f) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(5)(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.

(c) The commission may levy on and collect an annual assessment from each participating state and impose fees on licensees of participating states when a compact privilege is granted to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each fiscal year for which sufficient revenue is not provided by other sources. The aggregate annual assessment amount for participating states shall be allocated based upon a formula that the commission shall promulgate by rule.

(d) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any participating state, except by and with the authority of the participating state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(6)(a) The executive board shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive board shall include:

(i) Overseeing the day-to-day activities of the administration of the compact including compliance with the provisions of the compact and the commission's rules and bylaws;

(ii) Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact participating states, fees charged to licensees, and other fees;

(iii) Ensuring compact administration services are appropriately provided, including by contract;

(iv) Preparing and recommending the budget;

(v) Maintaining financial records on behalf of the commission;

(vi) Monitoring compact compliance of participating states and providing compliance reports to the commission;

(vii) Establishing additional committees as necessary;

(viii) Exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(ix) Other duties as provided in the rules or bylaws of the commission.

(b) The executive board shall be composed of up to seven members:

(i) The chair, vice chair, secretary, and treasurer of the commission, and any other members of the commission who serve on the executive board, shall be voting members of the executive board; and

(ii) Other than the chair, vice chair, secretary, and treasurer, the commission may elect up to three voting members from the current membership of the commission.

(c) The commission may remove any member of the executive board as provided in the commission's bylaws.

(d) The executive board shall meet at least annually.

(i) An executive board meeting at which it takes or intends to take formal action on a matter shall be open to the public, except that the executive board may meet in a closed, nonpublic session of a public meeting when dealing with any of the matters covered under subsection (4)(d) of this section.

(ii) The executive board shall give five business days' notice of its public meetings, posted on its website and as it may otherwise determine to provide notice to persons with an interest in the public matters the executive board intends to address at those meetings.

(e) The executive board may hold an emergency meeting when acting for the commission to:

(i) Meet an imminent threat to public health, safety, or welfare;

(ii) Prevent a loss of commission or participating state funds; or

(iii) Protect public health and safety.

(7)(a) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against

whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this subsection (7)(a) shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(b) The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) Notwithstanding (a) of this subsection, should any member, officer, executive director, employee, or representative of the commission be held liable for the amount of any settlement or judgment arising out of any actual or alleged act, error, or omission that occurred within the scope of that individual's employment, duties, or responsibilities for the commission, or that the person to whom that individual is liable had a reasonable basis for believing occurred within the scope of the individual's employment, duties, or responsibilities for the commission, the commission shall indemnify and hold harmless such individual, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of the individual.

(d) Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(e) Nothing in this compact shall be interpreted to waive or otherwise abrogate a participating state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman act, Clayton act, or any other state or federal antitrust or anticompetitive law or regulation.

(f) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the participating states or by the commission.

NEW SECTION. **Sec. 8.** (1) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and the presence of significant investigative information on all licensees and applicants for a license in participating states.

(2) Notwithstanding any other provision of state law to the contrary, a participating state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(a) Identifying information;

(b) Licensure data;

(c) Adverse actions against a licensee, license applicant, or compact privilege and information related thereto;

(d) Nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation;

(e) Any denial of an application for licensure, and the reason or reasons for such denial, excluding the reporting of any criminal history record information where prohibited by law;

(f) The presence of significant investigative information; and

(g) Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(3) The records and information provided to a participating state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a participating state.

(4) Significant investigative information pertaining to a licensee in any participating state will only be available to other participating states.

(5) It is the responsibility of the participating states to monitor the database to determine whether adverse action has been taken against a licensee or license applicant. Adverse action information pertaining to a licensee or license applicant in any participating state will be available to any other participating state.

(6) Participating states contributing information to the data system may designate information that may not be shared with the public without the express permission of the participating state.

(7) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the participating state contributing the information shall be removed from the data system.

NEW SECTION. **Sec. 9.** (1) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A commission rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rule-making authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(2) The rules of the commission shall have the force of law in each participating state, provided however that where the rules of the commission conflict with the laws of the participating state that establish the participating state's scope of practice as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(3) The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding as of the date specified by the commission for each rule.

(4) If a majority of the legislatures of the participating states rejects a commission rule or portion of a commission rule, by enactment of a statute or resolution in the same manner used to adopt the compact, within four years of the date of adoption of the rule, then such rule shall have no further force and

effect in any participating state or to any state applying to participate in the compact.

(5) Rules shall be adopted at a regular or special meeting of the commission.

(6) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

(7) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rule making:

(a) On the website of the commission or other publicly accessible platform;

(b) To persons who have requested notice of the commission's notices of proposed rule making; and

(c) In such other way or ways as the commission may by rule specify.

(8) The notice of proposed rule making shall include:

(a) The time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;

(b) If the hearing is held via telecommunication, videoconference, or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rule making;

(c) The text of the proposed rule and the reason therefor;

(d) A request for comments on the proposed rule from any interested person; and

(e) The manner in which interested persons may submit written comments.

(9) All hearings will be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(10) Nothing in this section shall be construed as requiring a separate hearing on each commission rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(11) The commission shall, by majority vote of all commissioners, take final action on the proposed rule based on the rule-making record.

(a) The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

(b) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(c) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (12) of this section, the effective date of the rule shall be no sooner than 30 days after the commission issuing the notice that it adopted or amended the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 24 hours' notice, with opportunity to comment, provided that the usual rule-making procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the

rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or participating state funds;

(c) Meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(14) No participating state's rule-making requirements shall apply under this compact.

NEW SECTION. **Sec. 10.** (1)(a) The executive and judicial branches of state government in each participating state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

(c) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact or commission rule and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2)(a) If the commission determines that a participating state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

(b) The commission shall provide a copy of the notice of default to the other participating states.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners, and all rights, privileges, and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of

the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of participation in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority or authorities, as applicable, and each of the participating states' state licensing authority or authorities, as applicable.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) Upon the termination of a state's participation in this compact, that state shall immediately provide notice to all licensees of the state, including licensees of other participating states issued a compact privilege to practice within that state, of such termination. The terminated state shall continue to recognize all compact privileges then in effect in that state for a minimum of 180 days after the date of said notice of termination.

(7) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(8) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(9)(a) Upon request by a participating state, the commission shall attempt to resolve disputes related to the compact that arise among participating states and between participating states and nonparticipating states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(10)(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact and the commission's rules.

(b) By majority vote, the commission may initiate legal action against a participating state in default in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting participating state's law.

(c) A participating state may initiate legal action against the commission in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(d) No individual or entity other than a participating state may enforce this compact against the commission.

NEW SECTION. **Sec. 11.** (1) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh participating state.

(a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the states that enacted the compact prior to the commission convening ("charter participating states") to determine if the statute enacted by each such charter participating state is materially different than the model compact.

(i) A charter participating state whose enactment is found to be materially different from the model compact shall be entitled to the default process set forth in section 10 of this act.

(ii) If any participating state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of participating states should be less than seven.

(b) Participating states enacting the compact subsequent to the charter participating states shall be subject to the process set forth in section 7(3)(w) of this act to determine if their enactments are materially different from the model compact and whether they qualify for participation in the compact.

(c) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(d) Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws shall be subject to the commission's rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(2) Any participating state may withdraw from this compact by enacting a statute repealing that state's enactment of the compact.

(a) A participating state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority or authorities to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(c) Upon the enactment of a statute withdrawing from this compact, the state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all compact privileges to practice within that state granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(3) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a participating state and a nonparticipating state that does not conflict with the provisions of this compact.

(4) This compact may be amended by the participating states. No amendment to this compact shall become effective and binding upon any participating state until it is enacted into the laws of all participating states.

NEW SECTION. **Sec. 12.** (1) This compact and the commission's rule-making authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration, of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rule-making authority solely for those purposes.

(2) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any participating state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

(3) Notwithstanding subsection (2) of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 10(2) of this act, terminate a participating state's participation in the compact, if it determines that a constitutional requirement of a participating state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining participating states and in full force and effect as to the participating state affected as to all severable matters.

NEW SECTION. **Sec. 13.** (1) Nothing in this chapter shall prevent or inhibit the enforcement of any other law of a participating state that is not inconsistent with the compact.

(2) Any laws, statutes, regulations, or other legal requirements in a participating state in conflict with the compact are superseded to the extent of the conflict.

(3) All permissible agreements between the commission and the participating states are binding in accordance with their terms.

NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act constitute a new chapter in Title 18 RCW.

Passed by the House April 13, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 298

[House Bill 1599]

FIREARM BACKGROUND CHECKS—INVOLUNTARY TREATMENT ACT COURT RECORDS

AN ACT Relating to court files and records exemptions for firearm background checks; and amending RCW 71.05.620.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 71.05.620 and 2018 c 201 s 3028 are each amended to read as follows:

(1) The files and records of court proceedings under this chapter and chapter 71.34 RCW shall be closed but shall be accessible to:

(a) The department;

(b) The department of social and health services;

(c) The authority;

(d) The state hospitals as defined in RCW 72.23.010;

(e) Any person who is the subject of a petition;

(f) The attorney or guardian of the person;

(g) Resource management services for that person; ((~~and~~))

(h) Service providers authorized to receive such information by resource management services; and

(i) The Washington state patrol firearms background division to conduct background checks for processing and purchasing firearms, concealed pistol licenses, alien firearms licenses, firearm rights restoration petitions under chapter 9.41 RCW, and release of firearms from evidence, including appeals of denial.

(2) The authority shall adopt rules to implement this section.

Passed by the House April 14, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

CHAPTER 299

[House Bill 1626]

COLORECTAL CANCER SCREENING TESTS—COVERAGE BY MEDICAL ASSISTANCE PROGRAMS

AN ACT Relating to coverage for colorectal screening tests under medical assistance programs; and amending RCW 74.09.520.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.09.520 and 2022 c 255 s 4 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services subject to rules adopted by the authority or department: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and X-ray services; (d) nursing facility services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary or director; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical and occupational therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a child by a

school district in a manner consistent with the requirements of this chapter. For the purposes of this section, neither the authority nor the department may cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care for clients requiring health-related consultation for assessment and service planning may be reviewed by a nurse.

(c) The department shall determine by rule which clients have a health-related assessment or service planning need requiring registered nurse consultation or review. This definition may include clients that meet indicators or protocols for review, consultation, or visit.

(3) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(4) Effective July 1, 1989, the authority shall offer hospice services in accordance with available funds.

(5) For Title XIX personal care services administered by the department, the department shall contract with area agencies on aging or may contract with a federally recognized Indian tribe under RCW 74.39A.090(3):

(a) To provide case management services to individuals receiving Title XIX personal care services in their own home; and

(b) To reassess and reauthorize Title XIX personal care services or other home and community services as defined in RCW 74.39A.009 in home or in other settings for individuals consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive Title XIX personal care services or other home and community services as defined in RCW 74.39A.009; and

(ii) Who, at the time of reassessment and reauthorization, are receiving such services in their own home.

(6) In the event that an area agency on aging or federally recognized Indian tribe is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

(7) Subject to the availability of amounts appropriated for this specific purpose, the authority may offer medicare part D prescription drug copayment coverage to full benefit dual eligible beneficiaries.

(8) Effective January 1, 2016, the authority shall require universal screening and provider payment for autism and developmental delays as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on August 27, 2015. This requirement is subject to the availability of funds.

(9) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for annual depression screening for youth ages twelve through eighteen as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on January 1, 2017. Providers may include, but are not limited to, primary care providers, public health nurses, and other providers in a clinical setting. This requirement is subject to the availability of funds appropriated for this specific purpose.

(10) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for maternal depression screening for mothers of children ages birth to six months. This requirement is subject to the availability of funds appropriated for this specific purpose.

(11) Subject to the availability of amounts appropriated for this specific purpose, the authority shall:

(a) Allow otherwise eligible reimbursement for the following related to mental health assessment and diagnosis of children from birth through five years of age:

(i) Up to five sessions for purposes of intake and assessment, if necessary;

(ii) Assessments in home or community settings, including reimbursement for provider travel; and

(b) Require providers to use the current version of the DC:0-5 diagnostic classification system for mental health assessment and diagnosis of children from birth through five years of age.

(12) Effective January 1, 2024, the authority shall require coverage for noninvasive preventive colorectal cancer screening tests assigned either a grade of A or grade of B by the United States preventive services task force and shall require coverage for colonoscopies performed as a result of a positive result from such a test.

Passed by the House March 4, 2023.

Passed by the Senate April 12, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

CHAPTER 300

[House Bill 1679]

WORK GROUP TO ADDRESS THE NEEDS OF STUDENTS IN FOSTER CARE OR EXPERIENCING HOMELESSNESS—EXPANSION

AN ACT Relating to modifying and extending requirements of a work group convened to address the needs of students in foster care, experiencing homelessness, or both, by adding reporting and other requirements related to students in or exiting institutional education facilities; amending RCW 28A.300.544; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.300.544 and 2020 c 233 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction, in collaboration with the department of children, youth, and families, the office of homeless youth prevention and protection programs of the department of commerce, and the student achievement council, shall convene a work group to address the needs of students in foster care, experiencing homelessness, or ((~~both~~)) in or exiting juvenile rehabilitation facilities. Nothing in this section prevents the office of the superintendent of public instruction from using an existing work group created under the authority of section 223(1)(bb), chapter 299, Laws of 2018, with modifications to the membership and duties, to meet the requirements of this section. The work group, which shall seek to promote continuity with efforts resulting from section 223(1)(bb), chapter 299, Laws of 2018, must include representatives of nongovernmental agencies ((~~and~~)), representation from the educational opportunity gap oversight and accountability committee, representation from the education data center, and meaningful consultation with youth and young adults who have lived experience in foster care, homelessness and juvenile rehabilitation. The work group must also include four legislative members who possess experience in issues of education, ((~~the foster care system, and~~)) child welfare, homeless youth, and juvenile rehabilitation, appointed as follows:

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(b) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(2) The work group shall develop recommendations to promote the following for students who are in foster care, experiencing homelessness, or ((~~both~~)) in or exiting juvenile rehabilitation facilities:

(a) The achievement of parity in education outcomes with the general student population; and

(b) The elimination of racial and ethnic disparities for education outcomes in comparison to the general student population.

(3) In developing the recommendations required by subsection (2) of this section, the work group shall:

(a) Review the education outcomes of students in foster care, experiencing homelessness, or ((~~both~~)) in or exiting juvenile rehabilitation facilities, by examining data, disaggregated by race and ethnicity, on:

(i) Kindergarten readiness, early grade reading and math, ((~~eighth and~~)) ninth grade students on track to graduate, high school completion, postsecondary

enrollment, ((~~and~~)) postsecondary completion, and other outcomes of students after high school; and

(ii) School attendance, school mobility, special education ((~~status~~)) and other student support programs, and school discipline;

(b) Evaluate the outcomes, needs, and service array for students in foster care, experiencing homelessness, or ((~~both~~)) in or exiting juvenile rehabilitation facilities, and the specific needs of students of color and students with special education needs;

(c) Engage stakeholders, including students in foster care, experiencing homelessness, or ((~~both~~)) in or exiting juvenile rehabilitation facilities, foster parents and relative caregivers, birth parents, caseworkers, school districts and educators, early learning providers, postsecondary institutions, and federally recognized tribes, to provide input on the development of recommendations; and

(d)(i) Submit ((~~annual reports~~)) a report to the governor, the appropriate committees of the legislature, and the educational opportunity gap oversight and accountability committee by October 31, ((~~2021, 2022, and~~)) 2023, and annually thereafter until 2027, that ((~~identify~~)) identifies:

(A) Progress the state has made toward achieving education parity for students in foster care, experiencing homelessness, or ((~~both~~)) in or exiting juvenile rehabilitation facilities; and

(B) Recommendations that can be implemented using existing resources, rules, and regulations, and those that would require policy, administrative, and resource allocation changes prior to implementation.

(ii) Reports required by (d) of this subsection may include findings and recommendations regarding the feasibility of developing a case study to examine or implement recommendations of the work group.

(4) The work group, in accordance with RCW 43.01.036, must submit a final report to the governor, the appropriate committees of the legislature, and the educational opportunity gap oversight and accountability committee by July 1, ((~~2024~~)) 2028. The final report must include the recommendations required by subsection (2) of this section and may include a plan for achieving the recommendations specified in subsection (2) of this section.

(5) To assist the work group in the completion of its duties, the following apply:

(a) The office of the superintendent of public instruction, department of children, youth, and families, the student achievement council, and the office of homeless youth prevention and protection programs of the department of commerce shall provide updated education data and other necessary data to the education data center established under RCW 43.41.400; and

(b) The education data center shall provide ((~~annual reports~~)) a report to the work group regarding education outcomes specified in subsection (3)(a)(i) and (ii) of this section by ((~~March 31, 2021, 2022, and~~)) August 31, 2023, and annually thereafter until 2027. If state funds are not available to produce the reports, the work group may pursue supplemental private funds to fulfill the requirements of this subsection (5)(b).

(6) Nothing in this section permits disclosure of confidential information protected from disclosure under federal or state law, including but not limited to information protected under chapter 13.50 RCW. Confidential information

received by the work group retains its confidentiality and may not be further disseminated except as permitted by federal and state law.

(7) ((~~For the purposes of this section, "students in foster care, experiencing homelessness, or both" includes students who are in foster care or experiencing homelessness, and students who have been homeless or in foster care, or both~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Students in foster care" means students who are the subject of a dependency proceeding as defined in RCW 28A.150.510.

(b) "Students experiencing homelessness" means students without a fixed, regular, and adequate nighttime residence in accordance with the definition of homeless children and youths in the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11431 through 11435.

(c) "Students in or exiting juvenile rehabilitation facilities" means youth and postresident youth as those terms are defined in RCW 28A.190.005.

(8) This section expires December 31, ((~~2024~~)) 2028.

Passed by the House March 1, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 301

[House Bill 1695]

AFFORDABLE HOUSING—DEFINITION—SURPLUS PUBLIC PROPERTY

AN ACT Relating to defining affordable housing for purposes of using surplus public property for public benefit; and amending RCW 39.33.015.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 39.33.015 and 2018 c 217 s 3 are each amended to read as follows:

(1) Any state agency, municipality, or political subdivision, with authority to dispose of surplus public property, may transfer, lease, or ((~~other disposal~~)) otherwise dispose of such property for a public benefit purpose, consistent with and subject to this section. Any such transfer, lease, or other disposal may be made to a public, private, or nongovernmental body on any mutually agreeable terms and conditions, including a no cost transfer, subject to and consistent with this section. Consideration must include appraisal costs, debt service, all closing costs, and any other liabilities to the agency, municipality, or political subdivision. However, the property may not be so transferred, leased, or disposed of if such transfer, lease, or disposal would violate any bond covenant or encumber or impair any contract.

(2) A deed, lease, or other instrument transferring or conveying property pursuant to subsection (1) of this section must include:

(a) A covenant or other requirement that the property shall be used for the designated public benefit purpose; and

(b) Remedies that apply if the recipient of the property fails to use it for the designated public purpose or ceases to use it for such purpose.

(3) To implement the authority granted by this section, the governing body or legislative authority of a municipality or political subdivision must enact rules to regulate the disposition of property for public benefit purposes. Any transfer, lease, or other disposition of property authorized under this section must be consistent with existing locally adopted comprehensive plans as described in RCW 36.70A.070.

(4) This section is deemed to provide a discretionary alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in any state agency, municipality, or political subdivision.

(5) No transfer, lease, or other disposition of property for public benefit purposes made pursuant to any other provision of law prior to June 7, 2018, may be construed to be invalid solely because the parties thereto did not comply with the procedures of this section.

(6) The transfer at no cost, lease, or other disposal of surplus real property for public benefit purposes is deemed a lawful purpose of any state agency, municipality, or political subdivision, for which accounts are kept on an enterprise fund or equivalent basis, regardless of the primary purpose or function of such agency.

(7) This section does not apply to the sale or transfer of any state forestlands, any state lands or property granted to the state by the federal government for the purposes of common schools or education, or subject to a legal restriction that would be violated by compliance with this section.

(8) For purposes of this section:

(a) "Affordable housing" means:

(i) For rental housing, 30 percent of the household's monthly income for rent and utilities, other than telephone; or

(ii) For permanently affordable homeownership, 38 percent of the household's monthly income for mortgage principal, interest, property taxes, homeowner's insurance, homeowner's association fees, and land lease fees, as applicable. In addition, total household debt is no more than 45 percent of the monthly household income;

(b) "Public benefit" means affordable housing, which can be rental housing or permanently affordable homeownership for low-income and very low-income households as defined in RCW 43.63A.510, and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons; and

((~~(b)~~)) (c) "Surplus public property" means excess real property that is not required for the needs of or the discharge of the responsibilities of the state agency, municipality, or political subdivision.

Passed by the House February 28, 2023.

Passed by the Senate April 12, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

CHAPTER 302

[Substitute House Bill 1700]

EASTERN WASHINGTON CULTURAL LANDSCAPE FEATURE—CAPITOL CAMPUS

AN ACT Relating to establishing a memorial on the capitol campus to commemorate eastern Washington; and adding new sections to chapter 43.34 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.34 RCW to read as follows:

(1) Any cultural landscape feature established on the capitol campus to commemorate the geological and cultural diversity of eastern Washington must recognize the flora and fauna, rich agriculture and forestry, and history of eastern Washington. Any such cultural landscape feature must include floral components such as ponderosa pine trees, quaking aspen trees, and western larch trees, or other site-adapted species. The design of such a cultural landscape feature must serve to celebrate the unique beauty of eastern Washington, its unparalleled agricultural significance to the state and world, and the deep history of these lands. The cultural landscape feature will also serve as a place of enjoyment and familiarity for those who call eastern Washington home.

(2) The capitol committee, or any subcommittee within, must consult with the department of enterprise services and the department of natural resources in its planning, planting, and placement of any floral components to be used as part of the eastern Washington cultural landscape feature.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.34 RCW to read as follows:

(1) The Washington state eastern Washington cultural landscape feature account is created in the custody of the state treasurer. The purpose of the account is to support the establishment and maintenance of the cultural landscape feature. The department of enterprise services may solicit and accept moneys from gifts, grants, or endowments for this purpose. All receipts from federal funds, gifts, or grants from the private sector, foundations, or other sources must be deposited into the account. Expenditures from the account may be used only for the design, siting, permitting, construction, maintenance, dedication, or creation of educational materials related to placement of this cultural landscape feature on the capitol campus. Only the department of enterprise services, or the department of enterprise services' designee, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but appropriation is not required for expenditures.

(2) The department of enterprise services may adopt rules governing the receipt and use of funds in the account.

Passed by the House April 19, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

CHAPTER 303

[Substitute House Bill 1701]

INSTITUTIONAL EDUCATION PROGRAMS—SUPERINTENDENT OF PUBLIC INSTRUCTION

AN ACT Relating to assigning the superintendent of public instruction the responsibility for the delivery and oversight of basic education services to justice-involved youth served through institutional education programs in facilities that are not under the jurisdiction of the department of social and health services; amending RCW 28A.300.040; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.190 RCW; creating new sections; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that students who are served though institutional education programs are constitutionally entitled to full access to the state's statutory program of basic education and its promise of an opportunity to graduate with a meaningful diploma that prepares them for postsecondary education, gainful employment, and citizenship. Ensuring full access to a foundational education for these students is unquestionably in the best interest of the youth, their families, and society at large.

(2) Legislative actions dedicated to improving the educational circumstances for students receiving services through institutional education programs have been enacted in recent years. In 2021, building upon the efforts of the task force on improving instructional education programs and outcomes established in the previous year, the legislature enacted numerous reforms intended to improve the provision of public education to youth in or released from secure juvenile justice facilities.

(3) Among other requirements, the 2021 legislation directed the office of the superintendent of public instruction and the department of children, youth, and families to jointly develop recommendations for the establishment, implementation, and funding of a reformed institutional education system that successfully meets the education and support needs of persons in and released from secure settings. The recommendations were to be directed toward meeting the educational needs of persons who are in or have been released from state long-term juvenile institutions and community facilities operated by the department of children, youth, and families, county juvenile detention centers, and facilities of the department of corrections that incarcerate juveniles committed as adults.

(4) The legislature finds that the office of the superintendent of public instruction and the department of children, youth, and families did not sufficiently address legislative directives for reform recommendations.

(5) The legislature, recognizing the ongoing need for systemic reforms to the process by which basic education services are delivered and overseen in secure juvenile justice facilities, intends to initiate the process of assigning the superintendent of public instruction responsibility for the delivery and oversight of basic education services to justice-involved youth served through institutional education programs in facilities that are not under the jurisdiction of the department of social and health services or the department of corrections. The legislature directs that this new program must implement the state's educational duties and goals under RCW 28A.150.210 in a way that better serves the needs of these students.

(6) In centralizing both delivery and oversight of these educational services with the superintendent, the legislature intends to decisively address essential governance, oversight and accountability, and continuity of education reforms. The legislature intends these reforms to recognize, support, and fully fund the unique educational needs of youth who receive education in these settings. Most importantly, however, the legislature intends for these reforms to provide these students with the opportunity to access the education and supports needed to make life-changing, and life-improving, academic progress.

NEW SECTION. **Sec. 2.** (1)(a) A joint select committee on governance and funding for institutional education is established, with members as provided in this subsection.

(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(b) The committee shall choose its cochairs from among its membership. The member from the majority caucus of the house of representatives shall convene the initial meeting of the committee.

(2) The committee shall examine and evaluate revisions to statutes, funding formulae, funding sources, and operating and capital budget appropriation structure as necessary to assign the superintendent of public instruction with the responsibility for the delivery and oversight of basic education services to youth receiving education through institutional education programs in facilities that are not under the jurisdiction of the department of social and health services or the department of corrections.

(3) The office of the superintendent of public instruction, the department of children, youth, and families, and the department of social and health services shall cooperate with the committee and provide information as the cochairs may reasonably request.

(4) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(5) Members of the committee are entitled to be reimbursed for travel expenses in accordance with RCW 44.04.120.

(6) The expenses of the committee must be paid jointly by the senate and the house of representatives. Committee expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(7) The committee shall report its findings and recommendations, which may be in the form of draft legislation, to the governor, the superintendent of public instruction, the chair of the state board of education, and the appropriate committees of the legislature by December 1, 2024.

(8) This section expires December 31, 2024.

Sec. 3. RCW 28A.300.040 and 2011 1st sp.s. c 43 s 302 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be made available online and which shall be sold at approximate actual cost of publication and distribution per volume to public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine;

(6) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(7) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager, or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(8) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(9) To issue certificates as provided by law;

(10) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(11) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(12) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(13) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

(14) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(15) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

(16) To perform all duties required by this act for the delivery and oversight of basic education services to justice-involved students under the age of 21 who are served through institutional education programs in facilities that are not under the jurisdiction of the department of social and health services or the department of corrections; and

(17) To perform such other duties as may be required by law.

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

(1) The office of the superintendent of public instruction shall develop a timeline and plan for assuming, by September 1, 2027, responsibility for the delivery of basic education services to justice-involved students who are under the age of 21 and served through institutional education programs in facilities that are not under the jurisdiction of the department of social and health services or the department of corrections. The timeline and plan shall consider: The findings and recommendations produced in accordance with section 2 of this act; recommendations provided in the December 1, 2022, improving institutional education outcomes final report of the office of the superintendent of public instruction and the department of children, youth, and families; staffing transitions for educators and staff that, as of the effective date of this section, deliver education programming and services to the justice-involved students; and legislation enacted in 2024 and in subsequent years relating to the superintendent's requirements under section 5 of this act.

(2) Beginning December 15, 2023, and annually thereafter through 2026, the office of the superintendent of public instruction shall, in accordance with RCW 43.01.036, provide an interim report on progress made in achieving the requirements of this section to the governor and the education and fiscal committees of the legislature.

(3) In meeting the requirements of this section, the office of the superintendent of public instruction shall consult with organizations representing educators and staff that deliver education programming and services to justice-involved students who are under the age of 21 and served through institutional education programs in facilities that are not under the jurisdiction of the department of social and health services or the department of corrections.

(4) This section expires June 30, 2027.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.190 RCW to read as follows:

Beginning September 1, 2027, the superintendent of public instruction is responsible for the delivery and oversight of basic education services to justice-involved students are who under the age of 21 and served through institutional education programs in facilities that are not under the jurisdiction of the department of social and health services or the department of corrections.

Passed by the House April 17, 2023.

Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 304

[Substitute House Bill 1753]

DERELICT VESSEL REMOVAL PROGRAM—NOTICES

AN ACT Relating to changing certain notice provisions in the derelict vessel removal program; and amending RCW 79.100.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 79.100.040 and 2013 c 291 s 37 are each amended to read as follows:

(1) Prior to exercising the authority granted in RCW 79.100.030, the authorized public entity must first obtain custody of the vessel. To do so, the authorized public entity must:

(a) Mail notice of its intent to obtain custody, at least ((~~twenty~~)) 10 days prior to taking custody, to the last known address of the previous owner to register the vessel in any state or with the federal government and to any lienholders or secured interests on record. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a state or federal agency;

(b) Post notice of its intent clearly on the vessel for ((~~thirty~~)) 15 days ((~~and publish its intent at least once, more than ten days but less than twenty days prior to taking custody, in a newspaper of general circulation for the county in which the vessel is located~~)); and

(c) Post notice of its intent on the department's internet website on a page specifically designated for such notices. If the authorized public entity is not the department, the department must facilitate the internet posting.

(2) All notices sent((~~,~~)) or posted((~~, or published~~)) in accordance with this section must, at a minimum, explain the intent of the authorized public entity to take custody of the vessel, the rights of the authorized public entity after taking custody of the vessel as provided in RCW 79.100.030, the procedures the owner must follow in order to avoid custody being taken by the authorized public entity, the procedures the owner must follow in order to reclaim possession after custody is taken by the authorized public entity, and the financial liabilities that the owner may incur as provided for in RCW 79.100.060.

(3)(a) Any authorized public entity may tow, beach, or otherwise take temporary possession of a vessel if the owner of the vessel cannot be located or is unwilling or unable to assume immediate responsibility for the vessel and if the vessel:

(i) Is in immediate danger of sinking, breaking up, or blocking navigational channels; or

(ii) Poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination.

(b) Before taking temporary possession of the vessel, the authorized public entity must make reasonable attempts to consult with the department or the United States coast guard to ensure that other remedies are not available. The

basis for taking temporary possession of the vessel must be set out in writing by the authorized public entity within seven days of taking action and be submitted to the owner, if known, as soon thereafter as is reasonable. If the authorized public entity has not already provided the required notice, immediately after taking possession of the vessel, the authorized public entity must initiate the notice provisions in subsection (1) of this section. The authorized public entity must complete the notice requirements of subsection (1) of this section before using or disposing of the vessel as authorized in RCW 79.100.050.

(4) An authorized public entity may invite the department of ecology to use the authority granted to it under RCW 90.56.410 prior to, or concurrently with, obtaining custody of a vessel under this section. However, this is not a necessary prerequisite to an authorized public entity obtaining custody.

Passed by the House February 27, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 305

[Engrossed Substitute House Bill 1758]

FISH HATCHERY MAINTENANCE ACTIVITIES—PERMITTING—SHORELINE MANAGEMENT ACT

AN ACT Relating to permitting for certain hatchery maintenance activities; amending RCW 90.58.355; adding a new section to chapter 90.58 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that fish hatchery programs require routine maintenance in order to keep them operational.

Sec. 2. RCW 90.58.355 and 2021 c 299 s 1 are each amended to read as follows:

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government to implement this chapter do not apply to:

(1) Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or to the department of ecology when it conducts a remedial action under chapter 70A.305 RCW. The department must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70A.305.090;

(2) Any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system stormwater general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard stormwater treatment facilities;

(3) The department of transportation projects and activities that meet the conditions of RCW 90.58.356; ((~~or~~))

(4) Projects and activities undertaken by the department of fish and wildlife, a federally recognized Indian tribe, a public utility district, or a municipal utility that meet the conditions of section 3 of this act; or

(5) Actions taken on the Columbia river by the United States army corps of engineers, under the authority of United States Code Titles 33 and 42 and 33 C.F.R. Sec. 335, to maintain and improve federal navigation channels in accordance with federally mandated dredged material management and improvement project plans, provided the project: (a) Has undergone environmental review under both the national environmental policy act, 42 U.S.C. Sec. 4321-4370h and the state environmental policy act, chapter 43.21C RCW; and (b) has applied for federal clean water act section 401 water quality certifications issued by the department.

NEW SECTION. **Sec. 3.** A new section is added to chapter 90.58 RCW to read as follows:

(1) The following maintenance activities undertaken by the department of fish and wildlife, a federally recognized Indian tribe, a public utility district, or a municipal utility, necessary to maintain the operation of fish hatcheries, including water intakes and discharges, fish ladders, water and power conveyances, weirs, and racks and traps used for fish collection, do not require a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government:

(a) Maintenance, repair, or replacement of equipment and components that support the larger hatchery facility and occur within the existing footprint of fish hatchery facilities;

(b) Construction or installation of safety structures and equipment;

(c) Maintenance occurring within existing water intake and outflow sites during times when fish presence is minimized; or

(d) Construction undertaken in response to unforeseen, extraordinary circumstances that is necessary to prevent a decline, lapse, or cessation of operation of a fish hatchery facility.

(2) The proponent of a project undertaken pursuant to this section must ensure compliance with the substantive requirements of this chapter for projects under this section. Projects undertaken under this section must not adversely affect public access or shoreline ecological functions.

(3) Prior to beginning a maintenance or repair project, the proponent of the project must provide written notification of projects authorized under this section to the local government with jurisdiction and to the department.

Passed by the House April 13, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 306

[Second Substitute House Bill 1762]

WAREHOUSE DISTRIBUTION CENTER EMPLOYERS

AN ACT Relating to protecting employees of warehouses; adding a new chapter to Title 49 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

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

(1) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person. For purposes of this subsection, "control" means the possession, directly or indirectly, of more than 50 percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(2) "Aggregated data" means information that an employer has combined or collected in summary or other form such that the data cannot be identified with any individual.

(3) "Defined time period" means any unit of time measurement equal to or less than the duration of an employee's shift, and includes hours, minutes, and seconds and any fraction thereof.

(4) "Department" means the department of labor and industries.

(5) "Designated employee representative" means any employee representative, including but not limited to an authorized employee representative that has a collective bargaining relationship with the employer.

(6) "Director" means the director of the department of labor and industries or the director's designee.

(7) "Employee" means an employee who is not exempt under RCW 49.46.010(3)(c) and works at a warehouse distribution center.

(8)(a) "Employee work speed data" means information an employer collects, stores, analyzes, or interprets relating to an individual employee's performance of a quota including, but not limited to, quantities of tasks performed, quantities of items or materials handled or produced, rates or speeds of tasks performed, measurements or metrics of employee performance in relation to a quota, and time categorized as performing tasks or not performing tasks.

(b) Employee work speed data does not include qualitative performance assessments, personnel records, or itemized wage statements pursuant to department rules, except for any content of those records that includes employee work speed data as defined in this subsection.

(9)(a) "Employer" means a person who directly or indirectly, or through an agent or any other person, including through the services of a third-party employer, temporary services, or staffing agency, independent contractor, or any similar entity, at any time, employs or exercises control over the wages, hours, or working conditions of 100 or more employees at a single warehouse distribution center in the state or 1,000 or more employees at one or more warehouse distribution centers in the state.

(b) For the purposes of determining the number of employees employed at a single warehouse distribution center or at one or more warehouse distribution centers, all employees employed directly or indirectly, or through an agency or any other person, and all employees employed by an employer and its affiliates, must be counted.

(c) For the purposes of determining responsible employers, all agents or other persons, and affiliates must be deemed employers and are jointly and severally responsible for compliance with this chapter.

(10) "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

(11) "Quota" means a work performance standard, whether required or recommended, where: (a) An employee is assigned or required to perform at a specified productivity speed, or perform a quantified number of tasks, or to handle or produce a quantified amount of material, within a defined time period and under which the employee may suffer an adverse employment action if they fail to complete the performance standard; or (b) an employee's actions are categorized between time performing tasks and not performing tasks, if the employee may suffer an adverse employment action if they fail to meet the performance standard.

(12) "Warehouse distribution center" means an establishment engaged in activities as defined by any of the following North American industry classification system codes, however such establishment is denominated:

(a) 493 for warehousing and storage, but does not include 493130 for farm product warehousing and storage;

(b) 423 for merchant wholesalers, durable goods;

(c) 424 for merchant wholesalers, nondurable goods; or

(d) 454110 for electronic shopping and mail-order houses.

NEW SECTION. **Sec. 2.** (1) An employer must provide to each employee, upon hire, or within 30 days of the effective date of this section, a written description of:

(a) Each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled within a defined time period;

(b) Any potential adverse employment action that could result from failure to meet each quota; and

(c) Any incentives or bonus programs associated with meeting or exceeding each quota.

(2) Whenever there is a change to the quota that results in a different quota than the most recent written description provided to the employee, the employer must: (a) Notify the employee verbally or in writing as soon as possible and before the employee is subject to the new quota; and (b) provide the employee with an updated written description of each quota to which the employee is subject within two business days of the quota change.

(3) Whenever an employer takes an adverse action against an employee in whole or in part for failure to meet a quota, the employer must provide that employee with the applicable quota for the employee and the personal work speed data for the employee that was the basis for the adverse action.

(4) The written description must be understandable, in plain language, and in the employee's preferred language. The department may adopt rules regarding the format, plain language, and language access requirements for the written description.

NEW SECTION. **Sec. 3.** (1) The time period considered in a quota, including time designated as productive time or time on task must include:

(a) Time for rest breaks and reasonable time to travel to designated locations for rest breaks;

(b) Reasonable travel time to on-site designated meal break locations. Meal breaks are not considered time on task or productive time unless the employee is required by the employer to remain on duty on the premises or at a prescribed worksite in the interest of the employer;

(c) Time to perform any activity required by the employer in order to do the work subject to any quota;

(d) Time to use the bathroom, including reasonable travel time; and

(e) Time to take any actions necessary for the employee to exercise the employee's right to a safe and healthful workplace pursuant to chapter 49.17 RCW, including but not limited to time to access tools or safety equipment necessary to perform the employee's duties.

(2) Reasonable travel time must include consideration of the architecture and geography of the facility and the location within the facility that the employee is located at the time.

NEW SECTION. **Sec. 4.** (1) Except as provided in section 5 of this act, a quota violates this chapter if the quota:

(a) Does not provide sufficient time as required under section 3(1) (a) through (c) of this act; or

(b) Prevents the performance of any activity required by the employer for the employee to do the work subject to any quota.

(2) An employee is not required to meet a quota that violates this section.

(3) An employer may not take adverse action against an employee for failing to meet a quota that violates this section or that was not disclosed to the employee as required under section 2 of this act.

NEW SECTION. **Sec. 5.** (1) A quota violates chapter 49.17 RCW if the quota:

(a) Does not provide sufficient time as required under section 3(1) (d) and (e) of this act;

(b) Prevents the performance of any activity related to occupational safety and health required by the employer for the employee to do the work subject to any quota; or

(c) Exposes an employee to occupational safety and health hazards in violation of the requirements of chapter 49.17 RCW and the applicable rules or regulations.

(2) An employee is not required to meet a quota that violates this section.

(3) An employer may not take adverse action against an employee for failing to meet a quota that violates this section.

(4) All provisions of section 8 of this act apply to any person who complains to the employer, the director, or any local, state, or federal governmental agency or official, related to a quota alleging any violations of this section.

(5)(a) This section must be implemented and enforced, including penalties, violations, citations, and other administrative procedures, pursuant to chapter 49.17 RCW.

(b) An employer who fails to allow adequate inspection of records in an inspection by the department within a reasonable time period may not use such

records in any appeal to challenge the correctness of any citation and notice issued by the department.

NEW SECTION. **Sec. 6.** (1) An employer must establish, maintain, and preserve contemporaneous, true, and accurate records of the following:

(a) Each employee's own personal work speed data;

(b) The aggregated work speed data for similar employees at the same warehouse distribution center; and

(c) The written descriptions of each quota the employee was provided pursuant to section 2 of this act.

(2)(a) The required records must be maintained and preserved throughout the duration of each employee's period of employment and for the period required by this subsection.

(b) Except as required under (c) of this subsection, subsequent to an employee's separation from the employer, records relating to the six-month period prior to the date of the employee's separation from the employer must be preserved for at least three years from the date of the employee's separation.

(c) Where an employer has taken adverse action against an employee in whole or in part for failure to meet a quota, the employer must preserve the records relating to the basis for the adverse action for at least three years from the date of the adverse action.

(d) The employer must make records available to the director upon request.

(3) Nothing in this section requires an employer to collect or keep such records if the employer does not use quotas or monitor work speed data.

(4) An employer who fails to allow adequate inspection of records in an inspection by the department within a reasonable time period may not use such records in any appeal to challenge the correctness of any citation and notice issued by the department.

NEW SECTION. **Sec. 7.** (1) An employee has the right to request, at any time, a written description of each quota to which the employee is subject, a copy of the employee's own personal work speed data for the prior six months, and a copy of the prior six months of aggregated work speed data for similar employees at the same warehouse distribution center.

(2) A former employee has the right to request, within three years subsequent to the date of their separation from the employer, a written description of the quota to which they were subject as of the date of their separation, a copy of the employee's own personal work speed data for the six months prior to their date of separation, and a copy of aggregated work speed data for similar employees at the same warehouse distribution center for the six months prior to their date of separation.

(3) An employer must provide records requested under this section at no cost to the employee or former employee.

(4) An employer must provide records requested under this section as soon as practicable and subject to the following:

(a) Requested records of written descriptions of a quota must be provided no later than two business days following the date of the receipt of the request; and

(b) Requested personal work speed data and aggregated work speed data must be provided no later than seven business days following the date of the receipt of the request.

(5) Nothing in this section requires an employer to use quotas or monitor work speed data. An employer that does not use quotas or monitor work speed data has no obligation to provide records under this section.

NEW SECTION. **Sec. 8.** (1) A person, including but not limited to an employer, his or her agent, or person acting as or on behalf of a hiring entity, or the officer or agent of any entity, business, corporation, partnership, or limited liability company, may not discharge or in any way retaliate, discriminate, or take adverse action against an employee or former employee for exercising any rights established in this chapter, or for being perceived as exercising rights established in this chapter including, but not limited to:

(a) Initiating a request for information about a quota or personal work speed data pursuant to section 7 of this act; and

(b) Making a complaint to the employer, the director, or any local, state, or federal governmental agency or official, related to a quota that is allegedly in violation of this chapter or chapter 49.17 RCW.

(2) An employee or former employee need not explicitly refer to this section or the rights established in this chapter to be protected from an adverse action. The protection provided in this section applies to former employees and to employees who mistakenly but in good faith allege violations of this chapter.

(3)(a) If a person takes adverse action against an employee or former employee within 90 days of the employee engaging or attempting to engage in activities protected by this chapter, there is a rebuttable presumption that the adverse action is a retaliatory action in violation of this section.

(b) The presumption may be rebutted by a preponderance of the evidence that: (i) The action was taken for other permissible reasons; and (ii) the engaging or attempting to engage in activities protected by this chapter was not a motivating factor in the adverse action.

(4) Except as provided for in section 5 of this act, the department must carry out and enforce the provisions of this section and section 4(3) of this act pursuant to procedures established under chapter 49.46 RCW and any applicable rules. The department may adopt new rules to implement or enforce this subsection.

NEW SECTION. **Sec. 9.** (1)(a) An employee may file a complaint with the department alleging a violation under this chapter or applicable rules, except for violations and enforcement of sections 5 and 8 of this act. The department must investigate the complaint.

(b) The department may not investigate any such alleged violation of rights that occurred more than three years before the date that the employee filed the complaint.

(c) If an employee files a timely complaint with the department, the department must investigate the complaint and issue either a citation and notice of assessment or a determination of compliance within 90 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the period and specifying the duration of the extension.

(d) The department must send the citation and notice of assessment or the determination of compliance to both the employer and the employee by service

of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(2) If the department's investigation finds that the employee's allegation cannot be substantiated, the department must issue a determination of compliance to the employee and the employer detailing such finding.

(3) The director may initiate an investigation without an employee's complaint to ensure compliance with this chapter.

(4) The department may request an employer perform a self-audit of any records relating to this act, which must be provided within a reasonable time. Reasonable timelines will be specified in the self-audit request. The department must determine reasonable time based on the number of affected employees and the period of time covered by the self-audit. The records examined by the employer in order to perform the self-audit must be made available to the department upon request.

(5) Upon the department's request, an employer must notify affected employees in writing that the department is conducting an investigation. The department may require the employer to include a general description of each investigation as part of the notification, including the allegations and whether the notified employee may be affected. The employer may consult with the department to provide the information for the description of the notification or investigation.

(6) If the department determines that the employer has violated a requirement of this chapter or any rule adopted under this chapter, the department also may order the employer to pay the department a civil penalty of not less than $1,000. The first violation may not exceed $1,000. The department may, at any time, waive or reduce any civil penalty assessed against an employer under this section if the department determines that the employer has taken corrective action to remedy a violation. The department must adopt rules creating a schedule to enhance penalties, not to exceed $10,000 per violation, based on repeat violations by the employer.Civil penalties must be collected by the department and deposited into the supplemental pension fund established under RCW 51.44.033.

(7) Except as provided under subsection (1) of this section, an employer who is found to have violated a requirement of this chapter and the rules adopted under this chapter resulting in a rest or meal period violation, must pay the employee one additional hour of pay at the employee's regular rate of pay for each day there is a violation.

(8) Upon receiving a complaint, the department may request or subpoena the records of the warehouse distribution center.

(9) For enforcement actions under this section, if any person fails to pay an assessment under this chapter, or under any rule under this chapter, after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the director may initiate collection procedures in accordance with the collection procedures under RCW 49.48.086.

(10) If the department finds that a quota violates this act, the department may order the employer to review and provide a corrected written quota to the affected employee or employees within 15 calendar days and place a letter in the employee's personnel file to acknowledge the correction. If the employer fails to

do so, the employer may be subject to the penalties under subsection (6) of this section and associated rules.

(11) In addition to any enforcement authority provided in this chapter or applicable rules, the department may enforce any violation under this chapter or applicable rules, except for violations and enforcement of section 5 of this act, by filing an action in the superior court for the county in which the violation is alleged to have occurred. If the department prevails, it is entitled to reasonable attorneys' fees and costs, in the amount to be determined by the court.

NEW SECTION. **Sec. 10.** (1) For enforcement actions under section 9 of this act, a person, firm, or corporation aggrieved by a citation and notice of assessment or determination of compliance by the department or any rules adopted under this chapter may appeal the citation and notice of assessment or determination of compliance to the director by filing a notice of appeal with the director within 15 calendar days of the department's issuance of the citation and notice of assessment or determination of compliance. A citation and notice of assessment or determination of compliance not appealed within 15 calendar days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director under this section stays the effectiveness of the citation and notice of assessment or determination of compliance pending final review of the appeal by the director as provided in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director must assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures must be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment must be de novo. Any party who seeks to challenge an initial order must file a petition for administrative review with the director within 30 days after service of the initial order. The director must conduct an administrative review in accordance with chapter 34.05 RCW.

(4) The director must issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(5) Orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(6) An employer who fails to allow adequate inspection of records in an investigation by the department under this chapter within a reasonable time period may not use such records in any appeal under this section to challenge the correctness of any determination by the department of the penalty assessed.

NEW SECTION. **Sec. 11.** The department may adopt and implement rules to carry out and enforce the provisions of this chapter.

NEW SECTION. **Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec. 14.** This act takes effect July 1, 2024.

Passed by the House April 22, 2023.
Passed by the Senate April 22, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 307

[Substitute House Bill 1764]

VALUATION OF ASPHALT AND AGGREGATES—PUBLIC ROAD CONSTRUCTION—SALES AND USE TAX

AN ACT Relating to establishing a method of valuing asphalt and aggregate used in public road construction for purposes of taxation; amending RCW 82.12.010 and 82.04.450; creating new sections; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that public road construction and repair is vital to the continued development of economic opportunity in this state.

(2) The legislature finds that the vast majority of public road construction projects involve paving companies that self-manufacture the asphalt and aggregates used in public road construction projects. Because most of the asphalt and aggregates these companies produce is used for their own public road construction projects, the legislature finds that it is difficult to obtain objective, consistent, and reliable information regarding the market value of the asphalt and aggregates used in public road construction projects.

(3) In light of the unique circumstances surrounding the valuation of self-manufactured asphalt and aggregates incorporated into public roads, the legislature intends to establish a method for valuing asphalt and aggregates that reduces the burdens on taxpayers and the department of revenue promotes certainty and consistency in the calculation of use tax and business and occupation tax on self-manufactured asphalt and aggregates across the paving industry.

Sec. 2. RCW 82.12.010 and 2017 c 323 s 519 are each amended to read as follows:

For the purposes of this chapter:

(1) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, has full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, also means any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With respect to property distributed to persons within this state by a consumer as defined in this subsection (1), the use of the property is deemed to be by such consumer.

(2) "Extended warranty" has the same meaning as in RCW 82.04.050(7).

(3) "Purchase price" means the same as sales price as defined in RCW 82.08.010.

(4)(a)(i) Except as provided in (a)(ii) of this subsection (4), "retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter.

(ii) "Retailer" does not include a professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale of tangible personal property, extended warranty, digital good, digital code, or a sale of any digital automated service or service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c) that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the retailer and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540.

(5) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW.

(6) "Use," "used," "using," or "put to use" have their ordinary meaning, and mean:

(a) With respect to tangible personal property, except for natural gas and manufactured gas, the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state;

(b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state after the service has been performed by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(c) With respect to an extended warranty, the first act within this state after the extended warranty has been acquired by which the taxpayer takes or assumes dominion or control over the article of tangible personal property to which the extended warranty applies, and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(d) With respect to a digital good or digital code, the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good or digital code;

(e) With respect to a digital automated service, the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service;

(f) With respect to a service defined as a retail sale in RCW 82.04.050(6)(c), the first act within this state by which the taxpayer, as a consumer, accesses the prewritten computer software;

(g) With respect to a service defined as a retail sale in RCW 82.04.050(2)(g), the first act within this state after the service has been performed by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good upon which the service was performed; and

(h) With respect to natural gas or manufactured gas, the use of which is taxable under RCW 82.12.022, including gas that is also taxable under the authority of RCW 82.14.230, the first act within this state by which the taxpayer consumes the gas by burning the gas or storing the gas in the taxpayer's own facilities for later consumption by the taxpayer.

(7)(a) "Value of the article used" is the purchase price for the article of tangible personal property, the use of which is taxable under this chapter. The term also includes, in addition to the purchase price, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used is determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used must be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used is determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules as the department of revenue may prescribe.

(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than ((~~one hundred eighty~~)) 180 days in any period of ((~~three hundred sixty-five~~)) 365 consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used must be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or

chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used is determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used is determined by: (i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used is determined by the purchase price of such article if, but for the use of the direct pay permit, the transaction would have been subject to sales tax.

(g) In the case of asphalt or aggregates manufactured or extracted by a person providing services taxable under RCW 82.04.280(1)(b) and used by that person in providing those services, the value of the asphalt or aggregates is equal to the sum of all direct and indirect costs attributable to the asphalt or aggregates used, plus a public road construction market adjustment of five percent of those costs.

(8) "Value of the digital good or digital code used" means the purchase price for the digital good or digital code, the use of which is taxable under this chapter. If the digital good or digital code is acquired other than by purchase, the value of the digital good or digital code must be determined as nearly as possible according to the retail selling price at place of use of similar digital goods or digital codes of like quality and character under rules the department may prescribe.

(9) "Value of the extended warranty used" means the purchase price for the extended warranty, the use of which is taxable under this chapter. If the extended warranty is received by gift or under conditions wherein the purchase price does not represent the true value of the extended warranty, the value of the extended warranty used is determined as nearly as possible according to the retail selling price at place of use of similar extended warranties of like quality and character under rules the department may prescribe.

(10) "Value of the service used" means the purchase price for the digital automated service or other service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used is determined as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department may prescribe.

Sec. 3. RCW 82.04.450 and 1983 1st ex.s. c 55 s 3 are each amended to read as follows:

(1) The value of products, including by-products, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the

extraction, manufacture, or sale of such products or by-products by the seller, except:

(a) Where such products, including by-products, are extracted or manufactured for commercial or industrial use;

(b) Where such products, including by-products, are shipped, transported or transferred out of the state, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale.

(2) ((~~In~~)) Except as otherwise provided in this subsection, in the ((~~above~~)) cases described in subsection (1)(a) and (b) of this section, the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products((~~: PROVIDED, That the~~)).

(a) The value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond: (((~~(a)~~))) (i) To the retail selling price of such new or improved product when first offered for sale; or (((~~(b)~~))) (ii) to the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale. The department of revenue shall prescribe uniform and equitable rules for the purpose of ascertaining such values.

(b) In the case of asphalt or aggregates manufactured or extracted by a person providing services taxable under RCW 82.04.280(1)(b) and used by that person in providing those services, the value of the asphalt or aggregates is equal to the sum of all direct and indirect costs attributable to the asphalt or aggregates used, plus a public road construction market adjustment of five percent of those costs.

NEW SECTION. **Sec. 4.** This act applies prospectively only to tax liability incurred as a result of contracts executed on or after the effective date of this section.

NEW SECTION. **Sec. 5.** This act takes effect August 1, 2023.

Passed by the House March 7, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 308

[Engrossed Substitute House Bill 1766]

PROTECTION ORDERS—HOPE CARD PROGRAM

AN ACT Relating to the creation of a hope card program; adding a new section to chapter 7.105 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

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

(1) Washington state has been a national leader in adopting legal protections to prevent and respond to abuse, violence, harassment, stalking, neglect, and other threatening behaviors, through the enactment of different types of civil

protection orders, which are intended to provide an efficient means to obtain protection against perpetrators of these harms. Protection orders are essential tools that can increase safety for victims of domestic violence, sexual assault, stalking, abuse of vulnerable adults, and unlawful harassment, by empowering them to obtain immediate protection for themselves without having to rely on the criminal legal system. From 2018 through 2021, more than 83,000 full protection order cases were filed in Washington courts, with domestic violence protection order cases making up nearly 58 percent of that total.

(2) Washingtonians who receive protection orders, however, are often confronted by a difficult choice—always carry a paper copy of the order with them, an inconvenient option that could result in the document being damaged or lost, or risk not having access to proper documentation should assistance from law enforcement or emergency services become necessary.

(3) Numerous other states including Oregon, Idaho, and Montana have successfully implemented a solution by establishing hope card programs. Hope cards are durable, laminated cards, similar in construction to a driver's license, that contain the vital information about a protection order that first responders need to quickly verify its existence.

(4) Establishing a hope card program in Washington will not only relieve protection order recipients of an unnecessary source of frustration and stress, but also increase the effectiveness of these crucial sources of safety and security for thousands of Washingtonians.

NEW SECTION. **Sec. 2.** A new section is added to chapter 7.105 RCW to read as follows:

(1) The administrative office of the courts shall develop a program for the issuance of protection order hope cards in scannable electronic format by superior and district courts. The administrative office of the courts shall develop the program in collaboration with the Washington state superior court judges' association, the Washington state district and municipal court judges' association, the Washington state association of county clerks, association of Washington superior court administrators, district and municipal court management association, and the Washington association of sheriffs and police chiefs, and shall make reasonably feasible efforts to solicit and incorporate input from appropriate stakeholder groups, including representatives from victim advocacy groups, law enforcement agencies, and the department of licensing.

(2)(a) A hope card must be in a scannable electronic format including, but not limited to, a barcode, data matrix code, or a quick response code, and must contain, without limitations, the following:

(i) The restrained person's name, date of birth, sex, race, eye color, hair color, height, weight, and other distinguishing features;

(ii) The protected person's name and date of birth and the names and dates of birth of any minor children protected under the order; and

(iii) Information about the protection order including, but not limited to, the issuing court, the case number, the date of issuance and date of expiration of the order, and the relevant details of the order, including any locations from which the person is restrained.

(b) If feasible, the information stored in a scannable electronic format and accessible through a barcode, data matrix code, or a quick response code must include a digital record of the protection order as entered and provide access to

the entire case history, including the petition for protection order, statement, declaration, temporary order, hearing notice, and proof of service.

(3) Commencing on January 1, 2025, a person who has been issued a valid full protection order may request a hope card from the clerk of the issuing court at the time the order is entered or at any time prior to the expiration of the order.

(4) A person requesting a hope card may not be charged a fee for the issuance of an original and one duplicate hope card.

(5) A hope card has the same effect as the underlying protection order.

(6) For the purposes of this section, "full protection order" means a domestic violence protection order, a sexual assault protection order, a stalking protection order, a vulnerable adult protection order, or an antiharassment protection order, as defined in this chapter.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2025.

Passed by the House April 13, 2023.
Passed by the Senate April 8, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 309

[House Bill 1777]

PUBLIC CONTRACTS—ENERGY SERVICES AND EQUIPMENT—PERFORMANCE-BASED CONTRACTING

AN ACT Relating to authorizing the use of performance-based contracting for energy services and equipment; amending RCW 39.35A.020, 39.35C.010, 39.35C.050, and 39.35C.060; adding a new section to chapter 39.35C RCW; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 39.35C RCW to read as follows:

(1) The objective of this act is to promote private-public partnerships to reduce the amount of deferred maintenance required by the clean building performance standard and decarbonize buildings and central energy systems in public facilities in a cost-effective manner.

(2) By June 30, 2031, the department must submit a report to the governor and the appropriate committees of the legislature on the adoption rate and cost-effectiveness of the performance-based contract authorized under this act. The report must include:

(a) The number of performance-based contracts issued;

(b) The cost-effectiveness of performance-based contracts issued, compared to alternative available financing mechanisms, including certificates of participation;

(c) Recommendations to improve the use of performance-based contracts; and

(d) Any other significant information associated with the implementation of this act.

(3) It is the intent of the legislature to consider the findings of the report and extend the expiration date of this act if performance-based contracts are achieving the legislative objective.

(4) This section expires June 30, 2033.

Sec. 2. RCW 39.35A.020 and 2022 c 128 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)(a) "Conservation" includes reduced:

(i) Energy consumption;

(ii) Energy demand;

(iii) Energy cost; or

(iv) Greenhouse gas emissions.

(b)(i) "Conservation" includes reductions in the use or cost of water, wastewater, or solid waste.

(ii) "Conservation" does not include thermal or electric energy production from cogeneration.

(2) "Energy equipment and services" means:

(a) Energy management systems and any equipment, materials, supplies, or conservation projects that are expected, upon installation, to reduce the energy use, reduce the energy demand, reduce the energy cost, or reduce the greenhouse gas emissions, of a facility; and

(b) The services associated with the equipment, materials, supplies, or conservation projects including, but not limited to, design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(3) "Energy management system" has the definition provided in RCW 39.35.030.

(4) "Facility" includes a building, structure, group of buildings or structures at a single site, site improvement, or other facility owned by a municipality.

(5) "Municipality" has the definition provided in RCW 39.04.010.

(6) "Performance-based contract" means one or more contracts for water conservation services, solid waste reduction services, or energy equipment and services between a municipality and any other persons or entities, if the payment obligation for each year under the contract, including the year of installation, is either: (a) Set as a percentage of the annual energy cost savings, water cost savings, solid waste cost savings, or benefits achieved through conservation projects attributable under the contract; or (b) guaranteed by the other persons or entities to be less than the annual energy cost savings, water cost savings, solid waste cost savings, or other benefits attributable under the contract. Such guarantee shall be, at the option of the municipality, a bond or insurance policy, or some other guarantee determined sufficient by the municipality to provide a level of assurance similar to the level provided by a bond or insurance policy. Payment obligations may include regular service payments made by a municipality to any persons or entities that own energy equipment and services under a performance-based contract.

Sec. 3. RCW 39.35C.010 and 2022 c 128 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) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. If these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

(2)(a) "Conservation" includes reduced:

(i) Energy consumption;

(ii) Energy demand;

(iii) Energy cost; or

(iv) Greenhouse gas emissions.

(b) "Conservation" does not include thermal or electric energy production from cogeneration.

(c) "Conservation" also includes reductions in the use or cost of water, wastewater, or solid waste.

(3)(a) "Cost-effective" means that the present value to a state agency or school district of the benefits reasonably expected to be achieved or produced by a facility, conservation activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) The expected value of energy equipment and services at the time of contract execution that are provided through a performance-based contract may exceed the fair market value.

(4) "Department" means the state department of enterprise services.

(5) "Energy" means energy as defined in RCW 43.21F.025(5).

(6) "Energy as a service" means a performance-based contract in which a state agency, public school district, public university, or municipality makes service payments to a third party or entity for energy services, which may include the provision of energy equipment that is owned and operated by a third party or entity.

(7) "Energy audit" has the definition provided in RCW 43.19.670, and may include a determination of the water or solid waste consumption characteristics of a facility.

(((~~(7)~~))) (8) "Energy efficiency project" means a conservation or cogeneration project.

(((~~(8)~~))) (9) "Energy efficiency services" means assistance furnished by the department to state agencies and school districts in identifying, evaluating, and implementing energy efficiency projects.

(((~~(9)~~))) (10) "Local utility" means the utility or utilities in whose service territory a public facility is located.

(((~~(10)~~))) (11) "Performance-based contracting" means contracts for which payment ((~~is~~)) or payment obligations are conditional on achieving contractually specified energy savings, which may include regular service payments made by a state agency, public school district, public university, or municipality to any persons or entities that own energy equipment and services under a performance-based contract.

(((~~(11)~~))) (12) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(((~~(12)~~))) (13) "Public facility" means a building, structure, group of buildings or structures at a single site, site improvement, or other facility owned by a state agency or school district.

(((~~(13)~~))) (14) "State agency" means every state office or department, whether elective or appointive, state institutions of higher education, and all boards, commissions, or divisions of state government, however designated.

(((~~(14)~~))) (15) "State facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency.

(((~~(15)~~))) (16) "Utility" means privately or publicly owned electric and gas utilities, electric cooperatives and mutuals, whether located within or without Washington state.

Sec. 4. RCW 39.35C.050 and 2015 c 79 s 10 are each amended to read as follows:

In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency or school district responsible for a facility, a state or regional university acting independently, and any other state agency or school district acting through the department or ((~~as otherwise authorized by law~~)) acting independently, may:

(a) Develop and finance conservation at public facilities in accordance with express provisions of this chapter;

(b) Contract for energy services, including through a performance-based ((~~contracts~~)) contract; and

(c) Contract to sell energy savings from a conservation project at public facilities to local utilities or the Bonneville power administration.

(2)(a) This subsection authorizes state agencies, public school districts, public universities, and municipalities to enter into energy as a service contracts. Pursuant to this subsection, a state agency, public school district, public university, or municipality may, whether acting independently or through the department:

(i) Develop conservation projects and services that require the ownership of energy equipment to be held by other persons or entities;

(ii) Contract for energy services, including through a performance-based contract;

(iii) Contract to sell energy savings from a conservation project at public facilities to local utilities or the Bonneville power administration; and

(iv) Contract with a person or entity for energy equipment or services.

(b) Any contract for energy as a service entered into pursuant to the authority of this subsection is subject to the following conditions:

(i) The contract may include terms that transfer ownership of energy equipment from the state agency, public school district, public university, or municipality to the person or entity;

(ii) The person or entity is responsible for cost-savings and performance guarantees through the terms of the contract;

(iii) The value of energy equipment or services at the time of contract execution may exceed the fair market value;

(iv) At the end of the term of the contract, equipment ownership may be transferred back to the state agency, public school district, public university, or municipality;

(v) The state agency, public school district, public university, or municipality will ensure that a contract does not directly result in loss of any position of employment by state employees in the classified service under RCW 41.06.020, employees included in the Washington management service under RCW 41.06.022, or school district employees under RCW 28A.150.203;

(vi) Training must be offered in the preventative maintenance and other related activities of energy equipment and services as detailed in the contract for energy services to existing classified employees who currently provide maintenance of energy equipment for the state agency, public school district, public university, or municipality; and

(vii) Prior to entering into a contract, the state agency, public school district, public university, or municipality must coordinate with the department to analyze the cost-effectiveness of the proposed performance-based contract compared to alternative available financing and service mechanisms, including certificates of participation. The state agency, public school district, public university, or municipality may enter into a contract only if the cost-effectiveness is greater than other available alternatives.

(3) A state or regional university acting independently, and any other state agency acting through the department or as otherwise authorized by law, may undertake procurements for third-party development of conservation at its facilities.

((~~(3)~~)) (4) A school district may also:

(a) Develop and finance conservation at school district facilities; and

(b) ((~~Contract for energy services, including performance-based contracts at school district facilities; and~~

~~(c)~~)) Contract to sell energy savings from energy conservation projects at school district facilities to local utilities or the Bonneville power administration directly or ((~~to local utilities or the Bonneville power administration~~)) through third parties.

((~~(4)~~)) (5) Direct financial grants and incentives received on behalf of the state agency, public school district, public university, or municipality will be passed on to the state agency, public school district, public university, or municipality.

(6) In exercising the authority granted by subsections (1), ((~~(2), and~~)) (3), and (4) of this section, a school district or state agency must comply with the provisions of RCW 39.35C.040.

Sec. 5. RCW 39.35C.060 and 1996 c 186 s 410 are each amended to read as follows:

State agencies, public school districts, public universities, and municipalities may use financing contracts under chapter 39.94 RCW, as well as performance-based contracts, to provide all or part of the funding for conservation projects. The department shall determine the eligibility of such projects for financing contracts. The repayments of the financing contracts or performance-based contracts shall be sufficient to pay, when due, the principal and interest on the contracts or the services payments over the agreed upon term. Performance-based contracts entered into by state agencies, public school

districts, public universities, and municipalities under this act that include the purchase of real or personal property are subject to the requirements of chapter 39.94 RCW. Pursuant to chapter 39.94 RCW, no later than December 31, 2023, the department shall complete development of approved model contracts authorized by this act.

NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act expire June 30, 2033. Contracts entered into under the authority granted by this act may remain in effect following expiration of this act.

Passed by the House April 17, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 310

[Substitute House Bill 1779]
INTERAGENCY CARBON MONOXIDE WORK GROUP

AN ACT Relating to reducing toxic air pollution that threatens human health; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that carbon monoxide poisoning kills at least 430 people in the United States every year and 50,000 people seek medical care to treat the adverse effects of carbon monoxide poisoning. Carbon monoxide gas is odorless and colorless, making it difficult for people to protect themselves and detect an issue that can cause sudden illness, death, and lifelong disability. Washington state has already enacted requirements for carbon monoxide alarms in residences. Therefore, the legislature intends to direct state agencies to collaborate on a study of what Washington state is doing to prevent carbon monoxide poisoning from sources outside of the home and what the state might reasonably do to keep people safe.

NEW SECTION. **Sec. 2.** (1) By September 1, 2023, the department of health must convene an interagency carbon monoxide work group consisting of representatives of the department of ecology, the Washington state patrol, and the office of the attorney general. The interagency carbon monoxide work group must nominate a chair and the chair may designate up to two additional participants with subject matter expertise to participate on the work group.

(2) The purpose of the interagency carbon monoxide work group is to produce a report regarding current and recommended future state agency activities to:

(a) Prevent carbon monoxide poisoning from sources outside of the home;

(b) Increase awareness of carbon monoxide among the most at-risk populations;

(c) Collect data on the number of incidents of carbon monoxide poisoning and their causes in Washington, in order to track the reduction of such incidents over time; and

(d) Identify any opportunities to seek federal grants or other sources of funding available for public awareness campaigns related to carbon monoxide harm avoidance.

(3) The interagency carbon monoxide work group must submit a report to the appropriate committees of the legislature and the governor by December 1, 2024, that contains recommendations on new policy changes and other actions that could be taken to reduce carbon monoxide poisoning in Washington.

(4) This section expires July 1, 2026.

NEW SECTION. **Sec. 3.** This act may be known and cited as Mary's law.

Passed by the House April 14, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 311

[Substitute House Bill 1783]

ASSOCIATE DEVELOPMENT ORGANIZATIONS—GRANT WRITERS—GRANT PROGRAM

AN ACT Relating to supporting economic development in distressed areas through hiring of grant writers; adding a new section to chapter 43.330 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that access to economic development assistance from government and philanthropic sources typically requires careful and skilled writing of grant applications. The legislature finds that trained and skilled grant writers are scarce, and particularly difficult to find in distressed areas with higher rates of unemployment that need economic development assistance. Therefore, the legislature intends to provide the department of commerce with the authority and resources necessary to ensure each county associate development organization can recruit and retain a grant writer.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, by July 1, 2024, the department shall establish a grant program to support associate development organizations in the recruiting, hiring, and retention of grant writers. The department must award grants on an annual basis and must prioritize grants for distressed areas as defined under RCW 43.168.020.

(2) Associate development organizations must apply for the grant program in a manner to be determined by the department.

(3) Associate development organizations that receive awards under this section must provide information on the use of the funds, including a description of the associate development organization's recruiting and hiring efforts and, if applicable, the number and types of grants applied for by the grant writers funded by the state, in their annual reports to the department required under RCW 43.330.082.

(4) Beginning December 31, 2026, the department must include information on grant award funding and use in its reports to the legislature on associate development organizations contracts required under RCW 43.330.082.

(5) The department shall adopt rules to implement this section.

Passed by the House April 14, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 312

[Substitute House Bill 1804]

PUBLIC EMPLOYEES' BENEFITS BOARD—RETIRED OR DISABLED EMPLOYEES OF POLITICAL SUBDIVISIONS

AN ACT Relating to eligibility for participation in the public employees' benefits board for retired or disabled employees of counties, municipalities, and other political subdivisions; amending RCW 41.05.080; adding new sections to chapter 41.05 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.05.080 and 2018 c 260 s 15 are each amended to read as follows:

(1) Under the qualifications, terms, conditions, and benefits set by the public employees' benefits board:

(a)(i) Retired or disabled state employees, retired or disabled school employees, retired or disabled employees of ((~~county, municipal, or other political subdivisions, or retired or disabled employees of tribal governments~~)) employer groups covered by this chapter may continue their participation in insurance plans and contracts after retirement or disablement.

(ii) The retired or disabled employees of employer groups whose contractual agreement with the authority terminates may continue their participation in insurance plans and contracts after the contractual agreement is terminated. The retired or disabled employees of employer groups whose contractual agreement with the authority terminates are not eligible for any subsidy provided under RCW 41.05.085;

(b) Separated employees may continue their participation in insurance plans and contracts if participation is selected immediately upon separation from employment;

(c) Surviving spouses, surviving state registered domestic partners, and dependent children of emergency service personnel killed in the line of duty may participate in insurance plans and contracts.

(2) Rates charged surviving spouses and surviving state registered domestic partners of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or dependent children who are not eligible for parts A and B of medicare shall be based on the experience of the community-rated risk pool established under RCW 41.05.022.

(3) Rates charged to surviving spouses and surviving state registered domestic partners of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or children who are eligible for parts A and B of medicare shall be calculated from a separate experience risk pool comprised only of individuals eligible for parts A and B of medicare; however, the premiums charged to medicare-eligible retirees and disabled employees shall be reduced by the amount of the subsidy provided under RCW 41.05.085, except as provided in subsection (1)(a)(ii) of this section.

(4) Surviving spouses, surviving state registered domestic partners, and dependent children of emergency service personnel killed in the line of duty and retired or disabled and separated employees shall be responsible for payment of premium rates developed by the authority which shall include the cost to the authority of providing insurance coverage including any amounts necessary for reserves and administration in accordance with this chapter. These self pay rates will be established based on a separate rate for the employee, the spouse, state registered domestic partners, and the children.

(5) The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) Employer groups that enter into a contractual agreement with the authority after the effective date of this section and whose contractual agreement with the authority is subsequently terminated, shall make a one-time payment as calculated in subsection (2) of this section to the authority for each of the employer group's retired or disabled employees who continue their participation in insurance plans and contracts under RCW 41.05.080(1)(a)(ii).

(2) For each of the employer group's retired or disabled employees who will be continuing their participation, the authority shall determine the one-time payment amount by calculating the difference in cost between the rate charged to retired or disabled employees under RCW 41.05.080(2) and the actuarially determined value of the medical benefits for retired and disabled employees who are not eligible for parts A and B of medicare, and then multiplying that difference by the number of months until the retired or disabled employee would become eligible for medicare.

(3) Employer groups shall not be entitled to any refund of the amount paid to the authority under this section.

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

Any retired or disabled employee whose participation in insurance plans or contracts under RCW 41.05.080(1)(a)(i) ended due to the termination of the contractual agreement between the authority and an employer group on or before January 1, 2023, must be allowed to return and participate in insurance plans and contracts as described in RCW 41.05.080(1)(a)(ii) so long as the retired or disabled employee notifies the health care authority in writing by December 31, 2023, after which participation will begin on the first day of the month following the date the authority receives the retired or disabled employee's written notice.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 14, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 313

[Engrossed House Bill 1812]

MEDICAID TRANSFORMATION PROJECT FUNDING—BUSINESS AND OCCUPATION TAX DEDUCTION

AN ACT Relating to continuing the business and occupation tax deduction for federal funds received from a medicaid transformation or demonstration project or medicaid quality improvement program or standard; amending RCW 82.04.43395; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.04.43395 and 2019 c 350 s 1 are each amended to read as follows:

(1) An accountable community of health may deduct from the measure of tax delivery system reform incentive payments, medicaid transformation project funding, or both, distributed by the Washington state health care authority, as described in Sec. 1115 medicaid demonstration project number 11-W-00304/0, as approved by the centers for medicare and medicaid services in accordance with Sec. 1115(a) of the social security act.

(2) A hospital that is owned by a municipal corporation or political subdivision, or a hospital that is affiliated with a state institution, may deduct from the measure of tax either or both of the following:

(a) Incentive payments received through the medicaid quality improvement program established through 42 C.F.R. 438.6(b)(2)((~~, as existing on July 28, 2019~~));

(b) Delivery system reform incentive payments, medicaid transformation project funding, or both, received through the project described in Sec. 1115 medicaid demonstration project number 11-W-00304/0, approved by the centers for medicare and medicaid services in accordance with Sec. 1115(a) of the social security act.

(3) Managed care organizations may deduct from the measure of tax the incentive payments received for achieving quality performance standards established through 42 C.F.R. 438.6(b)(2), as existing on July 28, 2019.

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

(a) "Accountable community of health" means ((~~an entity designated by the health care authority as a community of health under RCW 41.05.800 and any additional accountable communities of health authorized by the health care authority~~)) a regional nonprofit designated by the health care authority to work together with the health care delivery system, health plans, public health, social services, community-based organizations, the justice system, schools, tribal partners, and local government leaders to improve the health equity of their communities as part of Sec. 1115 medicaid demonstration project number 11-W-00304/0.

(b) "Managed care organization" has the same meaning as provided in RCW 74.60.010.

NEW SECTION. **Sec. 2.** RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the House March 16, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

CHAPTER 314

[Second Substitute Senate Bill 5048]

COLLEGE IN THE HIGH SCHOOL—FEES AND FUNDING

AN ACT Relating to eliminating college in the high school fees; amending RCW 28A.600.287 and 28B.76.730; adding a new section to chapter 28B.10 RCW; creating a new section; and repealing RCW 28A.600.290.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Beginning on September 1, 2023, institutions of higher education must provide enrollment and registration in college in the high school courses in which a student is eligible to receive college credit available at no cost for students in the ninth, 10th, 11th, or 12th grade at public high schools.

(2) Beginning with the 2023-2025 omnibus operating appropriation act, the legislature must pass an omnibus operating appropriations act that appropriates to the state board of community and technical colleges and each of the public four-year institutions of higher education state funding for college in high school courses administered at public secondary schools.

(3) State appropriations for the college in the high school program to the institutions of higher education shall be calculated as follows: The total college in the high school courses administered in the prior academic year, funded at $300 per student up to a maximum rate of:

(a) $6,000 per college in the high school course administered by a state university as defined in RCW 28B.10.016;

(b) $5,000 per college in the high school course administered by a regional university or the state college; or

(c) $3,500 per college in the high school course administered by a community or technical college.

(4) Beginning with fiscal year 2025 the rate per college in the high school course administered must be adjusted annually for inflation as measured by the consumer price index.

(5) State appropriations must be based on the total number of college in the high school courses administered by an institution of higher education for the academic year immediately prior to the current fiscal year. The state appropriation is based on course administration data submitted annually by October 15th to the office of financial management and legislative fiscal staff.

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

(a) "Community or technical college" has the same meaning as provided for under RCW 28B.50.030.

(b) "Course" means a class taught under a contract between an institution of higher education and a single high school teacher on an articulated subject in which the student is eligible to receive college credit.

(c) "High school" means a public school, as defined in RCW 28A.150.010, that serves students in any of grades nine through 12.

(d) "Institutions of higher education" has the same meaning as provided for under RCW 28B.10.016.

(e) "College in the high school" is the program created under RCW28A.600.287.

Sec. 2. RCW 28A.600.287 and 2021 c 71 s 1 are each amended to read as follows:

(1) College in the high school is a dual credit program located on a high school campus or in a high school environment in which a high school student is able to earn both high school and college credit by completing college level courses with a passing grade. A college in the high school program must meet the accreditation requirements in RCW 28B.10.035 and the requirements in this section.

(2) A college in the high school program may include both academic and career and technical education.

(3) Ninth, 10th, 11th, and 12th grade students, and students who have not yet received a high school diploma or its equivalent and are eligible to be in the ninth, 10th, 11th, or 12th grades, may participate in a college in the high school program.

(4) A college in the high school program must be governed by a local contract between an institution of higher education and a school district, charter school, or state-tribal compact school, in compliance with the rules adopted by the superintendent of public instruction under this section. The local contract must include the qualifications for students to enroll in a program course.

(5)(((~~(a) An institution of higher education may charge tuition fees per credit to each student enrolled in a program course as established in this subsection (5).~~

~~(b)(i) The maximum per college credit tuition fee for a program course is $65 per college credit adjusted for inflation using the implicit price deflator for that fiscal year, using fiscal year 2021 as the base, as compiled by the bureau of labor statistics, United States department of labor for the state of Washington.~~

~~(ii) Annually by July 1st, the office of the superintendent of public instruction must calculate the maximum per college credit tuition fee and post the fee on its website.~~

~~(c) The funds received by an institution of higher education under this subsection (5) are not tuition or operating fees and may be retained by the institution of higher education.~~

~~(6)~~)) Enrollment information on persons registered under this section must be maintained by the institution of higher education separately from other enrollment information and may not be included in official enrollment reports, nor may such persons be considered in any enrollment statistics that would affect higher education budgetary determinations.

(((~~(7)~~))) (6) Each school district, charter school, and state-tribal compact school must award high school credit to a student enrolled in a program course if the student successfully completes the course. If no comparable course is offered by the school district, charter school, or state-tribal compact school, the chief administrator shall determine how many credits to award for the successful completion of the program course. The determination must be made in writing before the student enrolls in the program course. The awarded credit must be applied toward graduation requirements and subject area requirements. Evidence

of successful completion of each program course must be included in the student's high school records and transcript.

(((~~(8) An~~)) (7) Each institution of higher education ((~~must award~~)) offering college in the high school must:

(a) Award college credit to a student enrolled in a program course ((~~if the student successfully completes the course. The awarded college credit must be applied toward general education requirements or degree requirements at the institution of higher education. Evidence of successful completion of each program course must be included in the student's college transcript~~)) and provide evidence of completion of each program course on the student's college transcript;

(b) Grant undergraduate college credit as appropriate and applicable to the student's degree requirements; and

(c) Provide course equivalencies for college in the high school courses and policy for awarding credit on the institution's website.

(((~~(9)~~))) (8)(a) A high school that offers a college in the high school program must provide general information about the program to all students in grades eight through 12 and to the parents and guardians of those students.

(b) A high school that offers a college in the high school program must include the following information about program courses in a notification to parents and guardians of students in grades eight through 12, including by email and in beginning of the year packets, and in the high school catalogue or equivalent:

(i) There is no fee for students to enroll in a program course ((~~to earn only high school credit. Fees apply for students who choose to enroll in a program course to earn both high school and college credit;~~

~~(ii) A description and breakdown of the fees charged to students to earn college credit;~~

~~(iii) A description of fee payment and financial assistance options available to students; and~~

~~(iv)~~)) for high school credit or for students to enroll in a program course for both high school and college credit; and

(ii) A notification that ((~~paying for~~)) enrolling in a program course for college credit automatically starts an official college transcript with the institution of higher education offering the program course regardless of student performance in the program course, and that college credit earned upon successful completion of a program course may count only as elective credit if transferred to another institution of higher education.

(((~~(10)~~))) (9) Full-time and part-time faculty at institutions of higher education, including adjunct faculty, are eligible to teach program courses.

(((~~(11) Students enrolled in a program course may pay college in the high school fees with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.~~

~~(12)~~))) (10) The superintendent of public instruction shall adopt rules for the administration of this section. The rules must be jointly developed by the superintendent of public instruction, the state board for community and technical colleges, the student achievement council, and the public baccalaureate institutions. The association of Washington school principals must be consulted

during the rules development. The rules must outline quality and eligibility standards that are informed by nationally recognized standards or models. In addition, the rules must encourage the maximum use of the program and may not narrow or limit the enrollment options.

(((~~(13)~~))) (11)(a) State universities, regional universities, and the state college, as defined in RCW 28B.10.016, offering college in the high school courses shall coordinate with an organization representing the presidents of the public four-year institutions of higher education, and the community and technical colleges offering college in the high school courses shall coordinate with the state board for community and technical colleges to each prepare a report, each disaggregated by institution of higher education, that includes:

(i) Data about student participation rates, award of high school credit, award of postsecondary credit at an institution of higher education, academic performance, and subsequent enrollment in an institution of higher education;

(ii) Geographic data on college in the high school courses, including the name, number, location of courses, and student enrollment disaggregated by school districts and high schools;

(iii) Data on college in the high school student demographics, including race, ethnicity, gender, and receipt of free or reduced price lunch; and

(iv) Recommendations on additional categories of data reporting and disaggregation.

(b) Beginning September 1, 2024, and each year thereafter, the reports must be submitted to the appropriate committees of the legislature in accordance with RCW 43.01.036.

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

(a) "Charter school" means a school established under chapter 28A.710 RCW.

(b) "High school" means a public school, as defined in RCW 28A.150.010, that serves students in any of grades nine through 12.

(c) "Institution of higher education" has the same meaning as in RCW 28B.10.016, and also means a public tribal college located in Washington and accredited by the northwest commission on colleges and universities or another accrediting association recognized by the United States department of education.

(d) "Program course" means a college course offered in a high school under a college in the high school program.

(e) "State-tribal compact school" means a school established under chapter 28A.715 RCW.

Sec. 3. RCW 28B.76.730 and 2021 c 71 s 6 are each amended to read as follows:

(1) The legislature recognizes that dual credit programs reduce both the cost and time of attendance to obtain a postsecondary degree. The legislature intends to reduce barriers and increase access to postsecondary educational opportunities for low-income students by removing the financial barriers for dual enrollment programs for students.

(2) The office, in consultation with the institutions of higher education and the office of the superintendent of public instruction, shall create the Washington dual enrollment scholarship pilot program. The office shall administer the

Washington dual enrollment scholarship pilot program and may adopt rules as necessary.

(3) Eligible students are those who meet the following requirements:

(a) Qualify for the free or reduced-price lunch program;

(b) Are enrolled in one or more dual credit programs, as defined in RCW 28B.15.821, such as ((~~college in the high school and~~)) running start; and

(c) Have at least a 2.0 grade point average.

(4) Subject to availability of amounts appropriated for this specific purpose, beginning with the 2019-20 academic year, the office may award scholarships to eligible students. The scholarship award must be as follows((~~:~~

~~(a) For~~)) for eligible students enrolled in running start:

(((~~(i)~~))) (a) Mandatory fees, as defined in RCW 28A.600.310(2), prorated based on credit load;

(((~~(ii)~~))) (b) Course fees or laboratory fees as determined appropriate by college or university policies to pay for specified course related costs;

(((~~(iii)~~))) (c) A textbook voucher to be used at the institution of higher education's bookstore where the student is enrolled. For every credit per quarter the student is enrolled, the student shall receive a textbook voucher for ten dollars, up to a maximum of fifteen credits per quarter, or the equivalent, per year; and

(((~~(iv)~~))) (d) Apprenticeship materials as determined appropriate by the college or university to pay for specific course-related material costs, which may include occupation-specific tools, work clothes, rain gear, or boots.

(((~~(b) An eligible student enrolled in a college in the high school program may receive a scholarship for tuition fees as set forth under RCW 28A.600.287.~~)))

(5) The Washington dual enrollment scholarship pilot program must apply after the fee waivers for low-income students under RCW 28A.600.310 ((~~and subsidies under RCW 28A.600.290~~)) are provided for.

NEW SECTION. **Sec. 4.** RCW 28A.600.290 (College in the high school program—Funding) and 2021 c 71 s 2, 2015 c 202 s 3, 2012 c 229 s 801, & 2009 c 450 s 3 are each repealed.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 14, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 315

[Second Substitute Senate Bill 5103]

DIFFICULT TO DISCHARGE MEDICAID PATIENTS—HOSPITAL REIMBURSEMENT

AN ACT Relating to payment to acute care hospitals for difficult to discharge medicaid patients who do not need acute care but who are waiting in the hospital to be appropriately and timely discharged to postacute and community settings; amending RCW 74.09.520; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.09.520 and 2022 c 255 s 4 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services subject to rules adopted by the authority or department: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and X-ray services; (d) nursing facility services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary or director; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical and occupational therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a child by a school district in a manner consistent with the requirements of this chapter. For the purposes of this section, neither the authority nor the department may cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care for clients requiring health-related consultation for assessment and service planning may be reviewed by a nurse.

(c) The department shall determine by rule which clients have a health-related assessment or service planning need requiring registered nurse consultation or review. This definition may include clients that meet indicators or protocols for review, consultation, or visit.

(3) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(4) Effective July 1, 1989, the authority shall offer hospice services in accordance with available funds.

(5) For Title XIX personal care services administered by the department, the department shall contract with area agencies on aging or may contract with a federally recognized Indian tribe under RCW 74.39A.090(3):

(a) To provide case management services to individuals receiving Title XIX personal care services in their own home; and

(b) To reassess and reauthorize Title XIX personal care services or other home and community services as defined in RCW 74.39A.009 in home or in other settings for individuals consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive Title XIX personal care services or other home and community services as defined in RCW 74.39A.009; and

(ii) Who, at the time of reassessment and reauthorization, are receiving such services in their own home.

(6) In the event that an area agency on aging or federally recognized Indian tribe is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

(7) Subject to the availability of amounts appropriated for this specific purpose, the authority may offer medicare part D prescription drug copayment coverage to full benefit dual eligible beneficiaries.

(8) Effective January 1, 2016, the authority shall require universal screening and provider payment for autism and developmental delays as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on August 27, 2015. This requirement is subject to the availability of funds.

(9) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for annual depression screening for youth ages twelve through eighteen as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on January 1, 2017. Providers may include, but are not limited to, primary care providers, public health nurses, and other providers in a clinical setting. This requirement is subject to the availability of funds appropriated for this specific purpose.

(10) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for maternal depression screening for mothers of children ages birth to six months. This requirement is subject to the availability of funds appropriated for this specific purpose.

(11) Subject to the availability of amounts appropriated for this specific purpose, the authority shall:

(a) Allow otherwise eligible reimbursement for the following related to mental health assessment and diagnosis of children from birth through five years of age:

(i) Up to five sessions for purposes of intake and assessment, if necessary;

(ii) Assessments in home or community settings, including reimbursement for provider travel; and

(b) Require providers to use the current version of the DC:0-5 diagnostic classification system for mental health assessment and diagnosis of children from birth through five years of age.

(12)(a) The authority shall require or provide payment to the hospital for any day of a hospital stay in which an adult or child patient enrolled in medical assistance, including home and community services or with a medicaid managed care organization, under this chapter:

(i) Does not meet the criteria for acute inpatient level of care as defined by the authority;

(ii) Meets the criteria for discharge, as defined by the authority or department, to any appropriate placement including, but not limited to:

(A) A nursing home licensed under chapter 18.51 RCW;

(B) An assisted living facility licensed under chapter 18.20 RCW;

(C) An adult family home licensed under chapter 70.128 RCW; or

(D) A setting in which residential services are provided or funded by the developmental disabilities administration of the department, including supported living as defined in RCW 71A.10.020; and

(iii) Is not discharged from the hospital because placement in the appropriate location described in (a)(ii) of this subsection is not available.

(b) The authority shall adopt rules identifying which services are included in the payment described in (a) of this subsection and which services may be billed separately, including specific revenue codes or services required on the inpatient claim.

(c) Allowable medically necessary services performed during a stay described in (a) of this subsection shall be billed by and paid to the hospital separately. Such services may include but are not limited to hemodialysis, laboratory charges, and x-rays.

(d) Pharmacy services and pharmaceuticals shall be billed by and paid to the hospital separately.

(e) The requirements of this subsection do not alter requirements for billing or payment for inpatient care.

(f) The authority shall adopt, amend, or rescind such administrative rules as necessary to facilitate calculation and payment of the amounts described in this subsection, including for clients of medicaid managed care organizations.

(g) The authority shall adopt rules requiring medicaid managed care organizations to establish specific and uniform administrative and review processes for payment under this subsection.

(h) For patients meeting the criteria in (a)(ii)(A) of this subsection, hospitals must utilize swing beds or skilled nursing beds to the extent the services are available within their facility and the associated reimbursement methodology prior to the billing under the methodology in (a) of this subsection, if the hospital determines that such swing bed or skilled nursing bed placement is appropriate for the patient's care needs, the patient is appropriate for the existing patient mix, and appropriate staffing is available.

NEW SECTION. **Sec. 2.** By December 1, 2023, the health care authority shall submit a report to the fiscal committees of the legislature containing information about the rate established in RCW 74.09.520(12) and the services that are included in the rate.

Passed by the Senate April 14, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 316

[Second Substitute Senate Bill 5128]

JURIES—DEMOGRAPHIC DATA, CHILD CARE WORK GROUP, AND ELECTRONIC SUMMONS

AN ACT Relating to jury diversity; amending RCW 2.36.095 and 2.36.054; adding a new section to chapter 2.36 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 2.36 RCW to read as follows:

The administrative office of the courts shall provide all courts with a method to collect data on a juror's race, ethnicity, age, sex, employment status, educational attainment, and income, as well as any other data approved by order of the chief justice of the Washington state supreme court. Data collection must be conducted and reported in a manner that preserves juror anonymity. The administrative office of the courts shall publish this demographic data in an annual report to the governor.

NEW SECTION. **Sec. 2.** (1)(a) The administrative office of the courts shall establish a work group to make recommendations for the creation of a child care assistance program for individuals reporting for jury service.

(b) The purpose of the child care assistance program shall be to eliminate the absence of child care as a barrier to performing jury service.

(2)(a) By December 1, 2024, the administrative office of the courts shall report the work group findings and recommendations for establishing a child care assistance program to the appropriate committees of the legislature.

(b) The report must outline the planning and implementation of the program and an estimation of the cost.

(3) This section expires December 1, 2024.

Sec. 3. RCW 2.36.095 and 2013 c 246 s 1 are each amended to read as follows:

(1) Persons selected to serve on a petit jury, grand jury, or jury of inquest shall be summoned by mail or personal service, or electronically. The county clerk shall issue summons and thereby notify persons selected for jury duty. The clerk may issue summons for any jury term, in any consecutive twelve-month period, at any time thirty days or more before the beginning of the jury term for which the summons are issued. However, when applicable, the provisions of RCW 2.36.130 apply.

(2) In courts of limited jurisdiction summons shall be issued by the court. Upon the agreement of the courts, the county clerk may summon jurors for any and all courts in the county or judicial district.

Sec. 4. RCW 2.36.054 and 2015 c 225 s 1 are each amended to read as follows:

Unless otherwise specified by rule of the supreme court, the jury source list and master jury list for each county shall be created as provided by this section.

(1) The superior court of each county, after consultation with the county clerk and county auditor of that jurisdiction, shall annually notify the consolidated technology services agency not later than March 1st of each year of its election to use either a jury source list that is merged by the county or a jury source list that is merged by the consolidated technology services agency. The consolidated technology services agency shall annually furnish at no charge to the superior court of each county a separate list of the registered voters residing in that county as supplied annually by the secretary of state and a separate list of driver's license and identicard holders residing in that county as supplied annually by the department of licensing, or a merged list of all such persons residing in that county, in accordance with the annual notification required by this subsection. The lists provided by the consolidated technology services agency shall be in an electronic format mutually agreed upon by the superior court requesting it and the consolidated technology services agency. The annual merger of the list of registered voters residing in each county with the list of licensed drivers and identicard holders residing in each county to form a jury source list for each county shall be in accordance with the standards and methodology established in this chapter or by superseding court rule whether the merger is accomplished by the consolidated technology services agency or by a county.

(2)(a) Persons on the lists of registered voters and driver's license and identicard holders shall be identified by a minimum of last name, first name, middle initial where available, date of birth, gender, and county of residence. Identifying information shall be used when merging the lists to ensure to the extent reasonably possible that persons are only listed once on the merged list. Conflicts in addresses are to be resolved by using the most recent record by date of last vote in a general election, date of driver's license or identicard address change or date of voter registration.

(b) After July 1, 2024, persons who:

(i) Apply for a driver's license or identicard in this state shall have the ability to opt in to allow the department of licensing to share the person's email address with the consolidated technology services agency for the purpose of electronically receiving jury summons and other communications related to jury service; and

(ii) Apply online to the register to vote shall, immediately after completing the voter registration transaction, be directed by the secretary of state to a website where the person shall have the ability to opt in to share the person's email address with the consolidated technology services agency for the purpose of electronically receiving jury summons and other communications related to jury service. The provisions of the subsection (2)(b)(ii) are subject to appropriation.

(3) The consolidated technology services agency shall provide counties that elect to receive a jury source list merged by the consolidated technology services agency with a list of names which are possible duplicates that cannot be resolved based on the identifying information required under subsection (2) of this section. If a possible duplication cannot subsequently be resolved satisfactorily through reasonable efforts by the county receiving the merged list, the possible

duplicate name shall be stricken from the jury source list until the next annual jury source list is prepared.

Passed by the Senate April 14, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 317

[Senate Bill 5166]

COOPERATIVE FINANCE ORGANIZATIONS—LOANS TO UTILITIES—BUSINESS AND OCCUPATION TAX DEDUCTION—REAUTHORIZATION

AN ACT Relating to reauthorizing the business and occupation tax deduction for cooperative finance organizations; adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter . . ., Laws of 2023 (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 to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to reduce the tax burden on individuals and businesses imposed by the existing business and occupation tax rates.

(4) If the review finds that at least one cooperative finance organization in this state used the deduction, then the legislature intends to extend the expiration date of this tax deduction.

(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 any data collected by the state.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing tax there may be deducted from the measure of tax, amounts received by a cooperative finance organization where the amounts are derived from loans to rural electric cooperatives or other nonprofit or governmental providers of utility services organized under the laws of this state.

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

(a) "Cooperative finance organization" means a nonprofit organization with the primary purpose of providing, securing, or otherwise arranging financing for rural electric cooperatives.

(b) "Rural electric cooperative" means a nonprofit, customer-owned organization that provides utility services to rural areas.

(3) This section expires January 1, 2034.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the Senate February 27, 2023.
Passed by the House April 17, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 318

[Substitute Senate Bill 5191]

REAL ESTATE BROKERS—VARIOUS PROVISIONS

AN ACT Relating to reforming the real estate agency law to require written brokerage services agreements, improve consumer disclosures, and provide that certain legal duties of brokers apply to all parties in the transaction; amending RCW 18.86.010, 18.86.020, 18.86.030, 18.86.040, 18.86.050, 18.86.060, 18.86.070, 18.86.080, 18.86.090, 18.86.100, and 18.86.120; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.86.010 and 2013 c 58 s 1 are each amended to read as follows:

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

(1) "Agency relationship" means the agency relationship created under this chapter ((~~or by written agreement~~)) between a real estate firm and a ((~~buyer and/or seller relating to the performance of real estate brokerage services~~)) principal.

(2) "Agent" means a broker who has ((~~entered into~~)) an agency relationship with a ((~~buyer or seller~~)) principal, including the firm's designated broker and any managing broker responsible for the supervision of that broker.

(3) "Broker" means broker, managing broker, and designated broker, collectively, as defined in chapter 18.85 RCW, unless the context requires the terms to be considered separately.

(4) "Brokerage services agreement" or "services agreement" means a written agreement between a real estate firm and principal that appoints a broker to represent the principal as an agent and sets forth the terms required by RCW 18.86.020 and 18.86.080.

(5) "Business opportunity" means and includes a business, business opportunity, and goodwill of an existing business, or any one or combination thereof when the transaction or business includes an interest in real property.

(((~~(5)~~))) (6) "Buyer" means an actual or prospective purchaser in a real estate transaction, or an actual or prospective tenant in a real estate rental or lease transaction, as applicable.

(((~~(6)~~))) (7) "Buyer's agent" means a broker who has ((~~entered into~~)) an agency relationship with only the buyer in a real estate transaction((~~, and includes subagents engaged by a buyer's agent~~)).

(((~~(7)~~))) (8) "Commercial real estate" has the same meaning as in RCW 60.42.005.

(9) "Confidential information" means information from or concerning a principal ((~~of a broker~~)) that:

(a) Was acquired by the broker during the course of an agency relationship with the principal;

(b) The principal reasonably expects to be kept confidential;

(c) The principal has not disclosed or authorized to be disclosed to third parties;

(d) Would, if disclosed, operate to the detriment of the principal; and

(e) The principal personally would not be obligated to disclose to the other party.

(((~~(8) "Dual~~)) (10) "Limited dual agent" means a broker who has ((~~entered into~~)) an agency relationship with both the buyer and seller in the same transaction.

(((~~(9)~~))) (11) "Material fact" means information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a real estate transaction, or operates to materially impair or defeat the purpose of the transaction. The fact or suspicion that the property, or any neighboring property, is or was the site of a murder, suicide or other death, rape or other sex crime, assault or other violent crime, robbery or burglary, illegal drug activity, gang-related activity, political or religious activity, or other act, occurrence, or use not adversely affecting the physical condition of or title to the property is not a material fact.

(((~~(10)~~))) (12) "Principal" means a buyer or a seller who has ((~~entered into~~)) an agency relationship with a broker.

(((~~(11)~~))) (13) "Real estate brokerage services" means the rendering of services for which a real estate license is required under chapter 18.85 RCW.

(((~~(12)~~))) (14) "Real estate firm" or "firm" have the same meaning as defined in chapter 18.85 RCW.

(((~~(13)~~))) (15) "Real estate transaction" or "transaction" means an actual or prospective transaction involving a purchase, sale, option, or exchange of any interest in real property or a business opportunity, or a lease or rental of real property. For purposes of this chapter, a prospective transaction does not exist until a written offer has been signed by at least one ((~~of the parties~~)) party.

(((~~(14)~~))) (16) "Seller" means an actual or prospective seller in a real estate transaction, or an actual or prospective landlord in a real estate rental or lease transaction, as applicable.

(((~~(15)~~))) (17) "Seller's agent" means a broker who has ((~~entered into~~)) an agency relationship with only the seller in a real estate transaction((~~, and includes subagents engaged by a seller's agent.~~

~~(16) "Subagent" means a broker who is engaged to act on behalf of a principal by the principal's agent where the principal has authorized the broker in writing to appoint subagents~~)).

Sec. 2. RCW 18.86.020 and 2013 c 58 s 2 are each amended to read as follows:

(1) A broker who performs real estate brokerage services for a buyer is a buyer's agent unless the:

(a) Broker's firm has appointed the broker to represent the seller pursuant to a ((~~written agency~~)) services agreement between the firm and the seller, in which case the broker is a seller's agent;

(b) ((~~Broker has entered into a subagency agreement with the seller's agent's firm, in which case the broker is a seller's agent;~~

~~(c)~~)) Broker's firm has appointed the broker to represent the seller pursuant to a ((~~written agency~~)) services agreement between the firm and the seller, and the broker's firm has also appointed the broker to represent the buyer pursuant to a ((~~written agency~~)) services agreement between the firm and the buyer, in which case the appointed broker is a limited dual agent; or

(((~~d~~))) (c) Broker is the seller or one of the sellers((~~; or~~

~~(e) Parties agree otherwise in writing after the broker has complied with RCW 18.86.030(1)(f).~~

~~(2) In a transaction in which different brokers affiliated with the same firm represent different parties, the firm's designated broker and any managing broker responsible for the supervision of both brokers, is a dual agent, and must obtain the written consent of both parties as required under RCW 18.86.060. In such case, each of the brokers shall solely represent the party with whom the broker has an agency relationship, unless all parties agree in writing that the broker is a dual agent.~~

~~(3) A broker may work with a party in separate transactions pursuant to different relationships, including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the broker complies with this chapter in establishing the relationships for each transaction~~)).

(2)(a) A firm must enter into a services agreement with the principal before, or as soon as reasonably practical after, its appointed broker commences rendering real estate brokerage services to, or on behalf of, the principal.

(b) The services agreement must include the following:

(i) The term of the agreement, and if the principal is a buyer, a default term of 60 days with the option of a longer term;

(ii) The broker appointed as an agent for the principal;

(iii) Whether the agency relationship is exclusive or nonexclusive, and if the principal is a buyer, checkbox options for the buyer to select either an exclusive or nonexclusive relationship;

(iv) Whether the principal consents to the broker appointed as an agent for the principal to act as a limited dual agent, which consent must be separately initialed by the principal and include an acknowledgment from the principal that a limited dual agent may not advocate terms favorable to one principal to the detriment of the other principal and is further limited as set forth in RCW 18.86.060; and

(v) Whether the principal consents to the firm's designated broker and any managing broker responsible for the supervision of the broker appointed as an agent for the principal to act as a limited dual agent in a transaction in which different brokers affiliated with the same firm represent different parties.

(3) A services agreement is not required when a broker performs real estate brokerage services as a buyer's agent solely for commercial real estate.

(4) A broker may work with a party in separate transactions pursuant to different relationships including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the broker complies with this chapter in establishing the relationships for each transaction.

Sec. 3. RCW 18.86.030 and 2013 c 58 s 3 are each amended to read as follows:

(1) ((~~Regardless of whether a broker is an agent, the~~)) A broker owes ((~~to all parties to whom the broker renders real estate brokerage services~~)) the following duties to their principal and to all parties in a transaction, which may not be waived:

(a) To exercise reasonable skill and care;

(b) To deal honestly and in good faith;

(c) To present all written offers, written notices and other written communications to and from either party in a timely manner, regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase;

(d) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party; provided that this subsection shall not be construed to imply any duty to investigate matters that the broker has not agreed to investigate;

(e) To account in a timely manner for all money and property received from or on behalf of either party;

(f) To provide a pamphlet ((~~on the law of real estate agency~~)) in the form prescribed ((~~in~~)) by RCW 18.86.120 and obtain an acknowledgment of receipt by the party. The pamphlet shall be provided to ((~~all parties~~)):

(i) Any party to whom the broker renders real estate brokerage services((~~, before the party signs an agency agreement with the broker, signs an offer in a real estate transaction handled by the broker, consents to dual agency, or waives any rights, under RCW 18.86.020(1)(e), 18.86.040(1)(e), 18.86.050(1)(e), or 18.86.060(2) (e) or (f), whichever occurs earliest; and~~

~~(g) To disclose in writing to all parties to whom the broker renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the broker, whether~~)) as soon as reasonably practical but before the party signs a services agreement; and

(ii) Any party not represented by a broker in a transaction before the party signs an offer or as soon as reasonably practical; and

(g) To disclose in writing before the broker's principal signs an offer, or as soon as reasonably practical, but before the parties reach mutual agreement:

(i) Whether the broker represents the buyer as the buyer's agent, the seller as the seller's agent, or both parties((~~, or neither party~~)) as a limited dual agent. The disclosure shall be set forth in a separate paragraph ((~~entitled~~)) titled "Agency Disclosure" in the agreement between the buyer and seller or in a separate writing ((~~entitled~~)) titled "Agency Disclosure((~~.~~))"; and

(ii) Any terms of compensation offered by a party or a real estate firm to a real estate firm representing another party.

(2) Unless otherwise agreed, a broker owes no duty to conduct an independent inspection of the property or to conduct an independent investigation of either party's financial condition, and owes no duty to independently verify the accuracy or completeness of any statement made by either party or by any source reasonably believed by the broker to be reliable.

Sec. 4. RCW 18.86.040 and 2013 c 58 s 5 are each amended to read as follows:

(1) Unless additional duties are agreed to in writing signed by a seller's agent, the duties of a seller's agent are limited to those set forth in RCW

18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction;

(b) To timely disclose to the seller any conflicts of interest;

(c) To advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) ((~~Not to~~)) To not disclose any confidential information from or about the seller, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the seller's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale.

(2)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not in and of itself breach the duty of loyalty to the seller or create a conflict of interest.

(b) The representation of more than one seller by different brokers affiliated with the same firm in competing transactions involving the same buyer does not in and of itself breach the duty of loyalty to the sellers or create a conflict of interest.

Sec. 5. RCW 18.86.050 and 2013 c 58 s 6 are each amended to read as follows:

(1) Unless additional duties are agreed to in writing signed by a buyer's agent, the duties of a buyer's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction;

(b) To timely disclose to the buyer any conflicts of interest;

(c) To advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) ((~~Not to~~)) To not disclose any confidential information from or about the buyer, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the buyer's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a buyer's agent is not obligated to((~~: (i) Seek~~)) seek additional properties to purchase while the buyer is a party to an existing contract to purchase((~~; or (ii) show properties as to which there is no written agreement to pay compensation to the buyer's agent~~)).

(2)(a) The showing of property in which a buyer is interested to other prospective buyers by a buyer's agent does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different brokers affiliated with the same firm in competing transactions involving the same property does

not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

Sec. 6. RCW 18.86.060 and 2013 c 58 s 7 are each amended to read as follows:

(1) ((~~Notwithstanding any other provision of this chapter, a~~)) A broker may act as a limited dual agent only with the written consent of both parties to the transaction ((~~after the dual agent has complied with RCW 18.86.030(1)(f), which consent must include a statement of the terms of compensation~~)), set forth in the services agreement.

(2) Unless additional duties are agreed to in writing signed by a limited dual agent, the duties of a limited dual agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) and (f) of this subsection:

(a) To take no action that is adverse or detrimental to either party's interest in a transaction;

(b) To timely disclose to both parties any conflicts of interest;

(c) To advise both parties to seek expert advice on matters relating to the transaction that are beyond the limited dual agent's expertise;

(d) ((~~Not to~~)) To not disclose any confidential information from or about either party, except under subpoena or court order, even after termination of the agency relationship;

(e) Unless otherwise agreed to in writing after the limited dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a limited dual agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale; and

(f) Unless otherwise agreed to in writing after the limited dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a limited dual agent is not obligated to((~~: (i) Seek~~)) seek additional properties to purchase while the buyer is a party to an existing contract to purchase((~~; or (ii) show properties as to which there is no written agreement to pay compensation to the dual agent~~)).

(3)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a limited dual agent does not in and of itself constitute action that is adverse or detrimental to the seller or create a conflict of interest.

(b) The representation of more than one seller by different brokers licensed to the same firm in competing transactions involving the same buyer does not in and of itself constitute action that is adverse or detrimental to the sellers or create a conflict of interest.

(4)(a) The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is subject to a transaction by a limited dual agent does not in and of itself constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different brokers licensed to the same firm in competing transactions involving the same property does not in and of itself constitute action that is adverse or detrimental to the buyers or create a conflict of interest.

(5) In a transaction in which different brokers affiliated with the same firm represent different parties, the firm's designated broker, and any managing broker responsible for the supervision of both brokers, is a limited dual agent. In such case, each appointed broker shall solely represent the party with whom the appointed broker has an agency relationship.

Sec. 7. RCW 18.86.070 and 2013 c 58 s 8 are each amended to read as follows:

(1) The agency relationships ((~~set forth in this chapter commence at the time that the broker undertakes to provide real estate brokerage services to a principal and~~)) established pursuant to this chapter continue until the earliest of the following:

(a) Completion of performance by the broker;

(b) Expiration of the term agreed upon by the parties;

(c) Termination of the relationship by mutual agreement of the parties; or

(d) Termination of the relationship by notice from either party to the other. However, such a termination does not otherwise affect the contractual rights of either party.

(2) Except as otherwise agreed to in writing, a broker owes no further duty after termination of the agency relationship, other than the ((~~duties of~~)) duty:

(a) ((~~Accounting~~)) To account for all moneys and property received during the relationship; and

(b) ((~~Not disclosing~~)) To not disclose confidential information.

Sec. 8. RCW 18.86.080 and 2013 c 58 s 9 are each amended to read as follows:

(1) In any real estate transaction, a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between firms.

(2) An agreement to pay or payment of compensation does not establish an agency relationship between the party who paid the compensation and the broker.

(3) A seller may agree that a seller's agent's firm may share with another firm the compensation paid by the seller.

(4) A buyer may agree that a buyer's agent's firm may share with another firm the compensation paid by the buyer.

(5) A firm may be compensated by more than one party for real estate brokerage services in a real estate transaction((~~, if those parties consent in writing at or before the time of signing an offer in the transaction~~)).

(6) A firm may receive compensation based on the purchase price without breaching any duty to the buyer or seller.

(7) ((~~Nothing contained in this chapter negates the requirement that an agreement authorizing or employing a broker to sell or purchase real estate for compensation or a commission be in writing and signed by the seller or buyer.~~)) To receive compensation for rendering real estate brokerage services from any party or firm, a real estate firm must have a services agreement containing the following:

(a) The terms of compensation, including:

(i) The amount the principal agrees to compensate the firm;

(ii) The principal's consent, if any, and any terms of such consent, to compensation sharing between firms and parties; and

(iii) The principal's consent, if any, and any terms of such consent, to compensation of the firm by more than one party;

(b) In a services agreement with a buyer, whether the appointed broker agrees to show the buyer properties if there is no agreement or offer by any party or firm to pay compensation to the firm; and

(c) Any other agreements between the parties.

(8) In lieu of obtaining a services agreement, a broker rendering real estate brokerage services to a buyer solely for commercial real estate may disclose in writing to the buyer, before the buyer signs an offer with regard to such commercial real estate, the sources and amounts of any compensation the broker has or expects to receive from any party in conjunction with such transaction. The disclosure shall be set forth in a separate paragraph titled "Compensation Disclosure" in the agreement between the buyer and seller or in a separate writing titled "Compensation Disclosure."

(9) A firm may receive compensation without a services agreement for the provision of a broker's price opinion, as defined in RCW 18.85.011, or a referral by one firm to another firm if the referring firm provided no real estate brokerage services in the transaction.

Sec. 9. RCW 18.86.090 and 2013 c 58 s 10 are each amended to read as follows:

(((~~(1)~~))) A principal is not liable for an act, error, or omission by an agent ((~~or subagent~~)) of the principal arising out of an agency relationship:

(((~~(a)~~))) (1) Unless the principal participated in or authorized the act, error, or omission; or

(((~~(b)~~))) (2) Except to the extent that: (((~~(i)~~))) (a) The principal benefited from the act, error, or omission; and (((~~(ii)~~))) (b) the court determines that it is highly probable that the claimant would be unable to enforce a judgment against the agent ((~~or subagent~~)).

(((~~(2) A broker is not liable for an act, error, or omission of a subagent under this chapter, unless that broker participated in or authorized the act, error or omission. This subsection does not limit the liability of a firm for an act, error, or omission by a broker licensed to the firm.~~)))

Sec. 10. RCW 18.86.100 and 2013 c 58 s 11 are each amended to read as follows:

(((~~(1)~~))) Unless otherwise agreed to in writing, a principal does not have knowledge or notice of any facts known by an agent ((~~or subagent~~)) of the principal that are not actually known by the principal.

(((~~(2) Unless otherwise agreed to in writing, a broker does not have knowledge or notice of any facts known by a subagent that are not actually known by the broker. This subsection does not limit the knowledge imputed to the designated broker or any managing broker responsible for the supervision of the broker of any facts known by the broker.~~)))

Sec. 11. RCW 18.86.120 and 2013 c 58 s 13 are each amended to read as follows:

(((~~(1)~~))) The pamphlet required under RCW 18.86.030(1)(f) shall ((~~consist of the entire text of RCW 18.86.010 through 18.86.030 and 18.86.040 through 18.86.110 with a separate cover page. The pamphlet shall be 8 1/2 by 11 inches in size, the text shall be in print no smaller than 10-point type, the cover page~~

shall be in print no smaller than 12-point type, and the title of the cover page "The Law of Real Estate Agency" shall be in print no smaller than 18-point type. The cover page shall be in the following form:

The Law of Real Estate Agency

This pamphlet describes your legal rights in dealing with a real estate firm or broker. Please read it carefully before signing any documents.

The following is only a brief summary of the attached law:

Sec. 1. Definitions. Defines the specific terms used in the law.

Sec. 2. Relationships between Brokers and the Public. Prescribes that a broker who works with a buyer or tenant represents that buyer or tenant -- unless the broker is the listing agent, a seller's subagent, a dual agent, the seller personally or the parties agree otherwise. Also prescribes that in a transaction involving two different brokers licensed to the same real estate firm, the firm's designated broker and any managing broker responsible for the supervision of both brokers, are dual agents and each broker solely represents his or her client -- unless the parties agree in writing that both brokers are dual agents.

Sec. 3. Duties of a Broker Generally. Prescribes the duties that are owed by all brokers, regardless of who the broker represents. Requires disclosure of the broker's agency relationship in a specific transaction.

Sec. 4. Duties of a Seller's Agent. Prescribes the additional duties of a broker representing the seller or landlord only.

Sec. 5. Duties of a Buyer's Agent. Prescribes the additional duties of a broker representing the buyer or tenant only.

Sec. 6. Duties of a Dual Agent. Prescribes the additional duties of a broker representing both parties in the same transaction, and requires the written consent of both parties to the broker acting as a dual agent.

Sec. 7. Duration of Agency Relationship. Describes when an agency relationship begins and ends. Provides that the duties of accounting and confidentiality continue after the termination of an agency relationship.

Sec. 8. Compensation. Allows real estate firms to share compensation with cooperating real estate firms. States that payment of compensation does not necessarily establish an agency relationship. Allows brokers to receive compensation from more than one party in a transaction with the parties' consent.

Sec. 9. Vicarious Liability. Eliminates the liability of a party for the conduct of the party's agent or subagent, unless the principal participated in or benefited from the conduct or the agent or subagent is insolvent. Also limits the liability of a broker for the conduct of a subagent.

~~Sec. 10. Imputed Knowledge and Notice. Eliminates the common law rule that notice to or knowledge of an agent constitutes notice to or knowledge of the principal.~~

~~Sec. 11. Interpretation. This law establishes statutory duties which replace common law fiduciary duties owed by an agent to a principal.~~

~~Sec. 12. Short Sale. Prescribes an additional duty of a firm representing the seller of owner-occupied real property in a short sale.~~

~~(2)(a) The pamphlet required under RCW 18.86.030(1)(f) must also include the following disclosure: When the seller of owner-occupied residential real property enters into a listing agreement with a real estate firm where the proceeds from the sale may be insufficient to cover the costs at closing, it is the responsibility of the real estate firm to disclose to the seller in writing that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the real property, for less than the amount the borrower owes, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate firm's commission.~~

~~(b) For the purposes of this subsection, "owner-occupied real property" means real property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit that is the principal residence of the borrower~~)) be formatted so it can be easily reviewed by a buyer or seller, including a legible font and font size. The pamphlet shall be in the following form:

Real Estate Brokerage in Washington

Introduction

This pamphlet provides general information about real estate brokerage and summarizes the laws related to real estate brokerage relationships. It describes a real estate broker's duties to the seller/landlord and buyer/tenant. Detailed and complete information about real estate brokerage relationships is available in chapter 18.86 RCW.

If you have any questions about the information in this pamphlet, contact your broker or the designated broker of your broker's firm.

Licensing and Supervision of Brokers

To provide real estate brokerage services in Washington, a broker must be licensed under chapter 18.85 RCW and licensed with a real estate firm, which also must be licensed. Each real estate firm has a designated broker who is responsible for supervising the brokers licensed with the firm. Some firms may have branch offices that are supervised by a branch manager and some firms may delegate certain supervisory duties to one or more managing brokers.

The Washington State Department of Licensing is responsible for enforcing all laws and rules relating to the conduct of real estate firms and brokers.

Agency Relationship

In an agency relationship, a broker is referred to as an "agent" and the seller/landlord and buyer/tenant is referred to as the "principal." For simplicity, in this pamphlet, seller includes landlord, and buyer includes tenant.

For Sellers
A real estate firm and broker must enter into a written services agreement with a seller to establish an agency relationship. The firm will then appoint one or more brokers to be agents of the seller. The firm's designated broker and any managing broker responsible for the supervision of those brokers are also agents of the seller.

For Buyers
A real estate firm and broker(s) who perform real estate brokerage services for a buyer establish an agency relationship by performing those services. The firm's designated broker and any managing broker responsible for the supervision of that broker are also agents of the buyer. A written services agreement between the buyer and the firm must be entered into before, or as soon as reasonably practical after, a broker begins rendering real estate brokerage services to the buyer.

For both Buyer and Seller - as a Limited Dual Agent
A limited dual agent provides limited representation to both the buyer and the seller in a transaction. Limited dual agency requires the consent of each principal in a written services agreement and may occur in two situations: (1) When the buyer and the seller are represented by the same broker, in which case the broker's designated broker and any managing broker responsible for the supervision of that broker are also limited dual agents; and (2) when the buyer and the seller are represented by different brokers in the same firm, in which case each broker solely represents the principal the broker was appointed to represent, but the broker's designated broker and any managing broker responsible for the supervision of those brokers are limited dual agents.

Duration of Agency Relationship
Once established, an agency relationship continues until the earliest of the following:

(1) Completion of performance by the broker;

(2) Expiration of the term agreed upon by the parties;

(3) Termination of the relationship by mutual agreement of the parties; or

(4) Termination of the relationship by notice from either party to the other. However, such a termination does not affect the contractual rights of either party.

Written Services Agreement
A written services agreement between the firm and principal must contain the following:

(1) The term (duration) of the agreement;

(2) Name of the broker(s) appointed to act as an agent for the principal;

(3) Whether the agency relationship is exclusive (which does not allow the principal to enter into an agency relationship with another firm during the term) or nonexclusive (which allows the principal to enter into an agency relationship with multiple firms at the same time);

(4) Whether the principal consents to limited dual agency;

(5) The terms of compensation;

(6) In an agreement with a buyer, whether the broker agrees to show a property when there is no agreement or offer by any party or firm to pay compensation to the broker's firm; and

(7) Any other agreements between the parties.

A Broker's Duties to All Parties

A broker owes the following duties to all parties in a transaction:

(1) To exercise reasonable skill and care;

(2) To deal honestly and in good faith;

(3) To timely present all written offers, written notices, and other written communications to and from either party;

(4) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party. A material fact includes information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a transaction, or operates to materially impair or defeat the purpose of the transaction. However, a broker does not have any duty to investigate matters that the broker has not agreed to investigate;

(5) To account in a timely manner for all money and property received from or on behalf of either party;

(6) To provide this pamphlet to all parties to whom the broker renders real estate brokerage services and to any unrepresented party;

(7) To disclose in writing who the broker represents; and

(8) To disclose in writing any terms of compensation offered by a party or a real estate firm to a real estate firm representing another party.

A Broker's Duties to the Buyer or Seller

A broker owes the following duties to their principal (either the buyer or seller):

(1) To be loyal to their principal by taking no action that is adverse or detrimental to their principal's interest in a transaction;

(2) To timely disclose to their principal any conflicts of interest;

(3) To advise their principal to seek expert advice on matters relating to the transaction that are beyond the broker's expertise;

(4) To not disclose any confidential information from or about their principal; and

(5) To make a good faith and continuous effort to find a property for the buyer or to find a buyer for the seller's property, until the principal has entered a contract for the purchase or sale of property or as agreed otherwise in writing.

Limited Dual Agent Duties

A limited dual agent may not advocate terms favorable to one principal to the detriment of the other principal. A broker, acting as a limited dual agent, owes the following duties to both the buyer and seller:

(1) To take no action that is adverse or detrimental to either principal's interest in a transaction;

(2) To timely disclose to both principals any conflicts of interest;

(3) To advise both principals to seek expert advice on matters relating to the transaction that are beyond the limited dual agent's expertise;

(4) To not disclose any confidential information from or about either principal; and

(5) To make a good faith and continuous effort to find a property for the buyer and to find a buyer for the seller's property, until the principals have entered a contract for the purchase or sale of property or as agreed otherwise in writing.

Compensation

In any real estate transaction, a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between firms. To receive compensation from any party, a firm must have a written services agreement with the party the firm represents (or provide a "Compensation Disclosure" to the buyer in a transaction for commercial real estate).

A services agreement must contain the following regarding compensation:

(1) The amount the principal agrees to compensate the firm for broker's services as an agent or limited dual agent;

(2) The principal's consent, if any, and any terms of such consent, to compensation sharing between firms and parties; and

(3) The principal's consent, if any, and any terms of such consent, to compensation of the firm by more than one party.

Short Sales

A "short sale" is a transaction where the seller's proceeds from the sale are insufficient to cover seller's obligations at closing (e.g., the seller's outstanding mortgage is greater than the sale price). If a sale is a short sale, the seller's real estate firm must disclose to the seller that the decision by any beneficiary or mortgagee, to release its interest in the property for less than the amount the seller owes to allow the sale to proceed, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including real estate firms' compensation.

NEW SECTION. **Sec. 12.** This act takes effect January 1, 2024.

Passed by the Senate April 14, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 319

[Substitute Senate Bill 5218]

MOBILITY ENHANCING EQUIPMENT—SALES AND USE TAX EXEMPTION

AN ACT Relating to providing a sales and use tax exemption for mobility enhancing equipment for use by or for a complex needs patient; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to the sale of mobility enhancing equipment for use by or for a complex needs patient to meet the user's specific and unique medical, physical, and functional needs and capacities for

basic activities when medically necessary to prevent hospitalization or institutionalization of the complex needs patient.

(2) In order to claim an exemption under this section, the purchaser must provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) For the purposes of this section, "complex needs patient" has the same meaning as in RCW 74.09.557.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW to read as follows:

(1) This chapter does not apply to the use of mobility enhancing equipment for use by or for a complex needs patient to meet the user's specific and unique medical, physical, and functional needs and capacities for basic activities when medically necessary to prevent hospitalization or institutionalization of the complex needs patient.

(2) For the purposes of this section, "complex needs patient" has the same meaning as in RCW 74.09.557.

NEW SECTION. **Sec. 3.** This act applies to mobility enhancing equipment, as described in sections 1 and 2 of this act, sold or used on or after August 1, 2023.

NEW SECTION. **Sec. 4.** RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the Senate March 31, 2023.
Passed by the House April 17, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 320

[Engrossed Substitute Senate Bill 5231]

EMERGENCY DOMESTIC VIOLENCE NO-CONTACT ORDERS

AN ACT Relating to the issuance of emergency domestic violence no-contact orders; and amending RCW 10.99.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 10.99.040 and 2021 c 215 s 122 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; ((~~and~~))

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence;

(e) Shall not deny issuance of a no-contact order based on the existence of an applicable civil protection order preventing the defendant from contacting the victim; and

(f) When issuing a no-contact order, shall attempt to determine whether there are any other active no-contact orders, protection orders, or restraining orders involving the defendant to assist the court in ensuring that any no-contact order it may impose does not lessen protections imposed by other courts under other such orders.

(2)(a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim and others. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. ((~~If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the~~)) The court authorizing release may issue((~~, by telephone,~~)) a no-contact order ((~~prohibiting~~)) that:

(i) Prohibits the person charged or arrested from ((~~having~~)) making any attempt to contact ((~~with the victim or~~)), including nonphysical contact, the victim or the victim's family or household members, either directly, indirectly, or through a third party;

(ii) Excludes the defendant from a residence shared with the victim, or from a workplace, school, or child care;

(iii) Prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or vehicle; and

(iv) Includes other related prohibitions to reduce risk of harm.

(b) ((~~In issuing the order, the court shall consider the provisions of~~)) The court shall verify that the requirements of RCW 10.99.030(3) have been satisfied, including that a sworn statement of a peace officer has been submitted to the court, documenting that the responding peace officers separated the parties and asked the victim or victims at the scene about firearms, other dangerous weapons, and ammunition that the defendant owns or has access to, and whether the defendant has a concealed pistol license. If the sworn statement of a peace officer or other information provided to the court indicates there may be a risk of harm if the defendant has access to firearms, dangerous weapons, or an active concealed pistol license, the court shall verify that peace officers have temporarily removed and secured all the firearms, dangerous weapons, and any concealed pistol license. The court shall then determine whether an order to surrender and prohibit weapons or an extreme risk protection order should be issued pursuant to RCW 9.41.800 or chapter 7.105 RCW, ((~~and shall order the defendant to surrender, and prohibit~~)) prohibiting the ((~~person~~)) defendant from possessing, ((~~all~~)) purchasing, receiving, having in the defendant's control or custody, accessing, or attempting to purchase or receive, any firearms, dangerous weapons, and any concealed pistol license and shall order the defendant to surrender, and prohibit the defendant from possessing, any firearms, dangerous weapons, and any concealed pistol license as required in

RCW 9.41.800, or shall issue an extreme risk protection order as required by chapter 7.105 RCW. The court may make these determinations on the record or off the record with a written explanation when declining to impose the restrictions authorized in this subsection.

((~~(c) The no-contact order shall also be issued in writing as soon as possible, and shall state that it may be extended as provided in subsection (3) of this section. By January 1, 2011, the administrative office of the courts shall develop a pattern form for all no-contact orders issued under this chapter. A no-contact order issued under this chapter must substantially comply with the pattern form developed by the administrative office of the courts.~~))

(3)(a) At the time of arraignment, the court shall review the defendant's firearms purchase history provided by the prosecutor pursuant to RCW 10.99.045, and any other firearms information provided by law enforcement or court or jail staff, and shall determine whether a no-contact order, an order to surrender and prohibit weapons, or an extreme risk protection order shall be issued or, if previously issued, extended.

(b) So long as the court finds probable cause, the court may issue or extend a no-contact order, an order to surrender and prohibit weapons, or an extreme risk protection order, even if the defendant fails to appear at arraignment. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. To the extent the court is aware, the court shall advise the defendant of the ongoing requirements of any other no-contact, restraining, or protection order that remains in effect.

((~~(b) In issuing the order, the court shall consider all information documented in the incident report concerning the person's possession of and access to firearms and whether law enforcement took temporary custody of firearms at the time of the arrest. The court may as a condition of release prohibit the defendant from possessing or accessing firearms and order the defendant to immediately surrender all firearms and any concealed pistol license to a law enforcement agency upon release.~~))

(c) If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring as defined in RCW 9.94A.030. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under ((~~subsection (2), (3), or (7) of~~)) this section is punishable as provided under RCW 7.105.450 or 7.105.460, or chapter 9.41 RCW.

(b) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 7.105 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A certified copy of the order shall be provided to the victim.

(5)(a) A peace officer may request, on an ex parte basis and before criminal charges or a petition for a protection order or an extreme risk protection order have been filed, an emergency no-contact order, order to surrender and prohibit weapons, or extreme risk protection order from a judicial officer on behalf of and with the consent of the victim of an alleged act involving domestic violence if the victim is able to provide such consent. If the victim is incapacitated as a result of the alleged act of domestic violence, a peace officer may request an emergency no-contact order, order to surrender and prohibit weapons, or extreme risk protection order on his or her behalf. The request shall be made based upon the sworn statement of a peace officer and may be made in person, by telephone, or by electronic means. If the court finds probable cause to believe that the victim is in imminent danger of domestic violence based on an allegation of the recent commission of an act involving domestic violence, the court shall issue an emergency no-contact order and an order to surrender and prohibit weapons or an extreme risk protection order as required by RCW 9.41.800 or chapter 7.105 RCW. An emergency no-contact order issued by a court will remain in effect until either the court terminates the emergency no-contact order, the court finds probable cause for a referred crime, or an ex parte hearing is held on a petition for a protection order or extreme risk protection order.

(b) If the court issues an order to surrender and prohibit weapons or an extreme risk protection order, and has not verified that peace officers have temporarily removed and secured all firearms and dangerous weapons, and any concealed pistol license, all orders issued by the court must be personally served by a peace officer and the peace officer shall take possession of all firearms, dangerous weapons, and any concealed pistol license belonging to the respondent that are surrendered, in plain sight, or discovered pursuant to a lawful search, as required by RCW 9.41.801.

(c) If the court does not issue an order to surrender and prohibit weapons or an extreme risk protection order, or has verified that all firearms, dangerous weapons, and any concealed pistol license have been temporarily removed by law enforcement, service of the court's orders may be effected electronically. Electronic service must be effected by a law enforcement agency transmitting copies of the petition and any supporting materials filed with the petition, any notice of hearing, and any orders, or relevant materials for motions, to the defendant at the defendant's electronic address or the defendant's electronic account associated with email, text messaging, social media applications, or other technologies. Verification of notice is required and may be accomplished through read-receipt mechanisms, a response, a sworn statement from the person who effected service verifying transmission and any follow-up communications such as email or telephone contact used to further verify, or an appearance by the defendant at a hearing. Sworn proof of service must be filed with the court by the person who effected service.

(d) A no-contact order, order to surrender and prohibit weapons, or extreme risk protection order authorized by telephonic or electronic means shall also be issued in writing as soon as possible and shall state that it may be extended as provided in subsection (3) of this section.

(6) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed.

(((~~(6)~~))) (7) Whenever ((~~a no-contact~~)) an order is issued, modified, or terminated under ((~~subsection (2) or (3) of~~)) this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (3) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

((~~(7) All courts shall develop policies and procedures by January 1, 2011, to grant victims a process to modify or rescind a no-contact order issued under this chapter. The administrative office of the courts shall develop a model policy to assist the courts in implementing the requirements of this subsection.~~))

(8) For the purposes of this section, and unless context clearly requires otherwise, "emergency no-contact order" means a no-contact order issued by a court of competent jurisdiction before criminal charges have been filed or before a petition for a protection order or extreme risk protection order has been filed.

NEW SECTION. **Sec. 2.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate April 14, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 321

[Substitute Senate Bill 5256]

CHILD WELFARE HOUSING ASSISTANCE PROGRAM—EXPANSION

AN ACT Relating to making permanent and expanding the child welfare housing assistance program; amending RCW 74.13.802; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.13.802 and 2022 c 297 s 965 are each amended to read as follows:

(1) ((~~Beginning July 1, 2020~~)) Within funds appropriated for this specific purpose, the department shall ((~~establish~~)) administer a child welfare housing assistance ((~~pilot~~)) program, which provides housing vouchers, rental assistance, navigation, and other support services to eligible families.

(a) The department shall operate or contract for the operation of the child welfare housing assistance ((~~pilot~~)) program under subsection (3) of this section in one ((~~county~~)) or more counties west of the crest of the Cascade mountain range and one ((~~county~~)) or more counties east of the crest of the Cascade mountain range.

(b) The child welfare housing assistance ((~~pilot~~)) program is intended to reduce the need for foster care placement and to shorten the time that children remain in out-of-home care when placement is necessary.

(2) ((~~A parent with a child who is dependent pursuant to chapter 13.34 RCW and whose primary remaining barrier to reunification is the lack of appropriate housing is eligible for the child welfare housing assistance pilot program.~~)) The following families are eligible for assistance from the child welfare housing assistance program:

(a) A parent with a child who is dependent pursuant to chapter 13.34 RCW and a lack of appropriate housing is a remaining barrier to reunification; and

(b) A parent of a child who is a candidate for foster care as defined in RCW 26.44.020 and whose housing instability is a barrier to the child remaining in the home.

(3) The department shall contract with an outside entity or entities, who must have a demonstrated understanding of the importance of stable housing for children and families involved or at risk of being involved with the child welfare system, to operate the child welfare housing assistance ((~~pilot~~)) program. If no outside entity or entities are available to operate the program or specific parts of the program, the department may operate the program or the specific parts that are not operated by an outside entity.

(4) Families may be referred to the child welfare housing assistance ((~~pilot~~)) program by a department caseworker, an attorney, a guardian ad litem as defined in chapter 13.34 RCW, a parent ally as defined in RCW 2.70.060, an office of public defense social worker, or the court.

(5) The department shall consult with a stakeholder group that must include, but is not limited to, the following:

(a) Parent allies;

(b) Parent attorneys and social workers managed by the office of public defense parent representation program;

(c) The department of commerce;

(d) Housing experts;

(e) Community-based organizations;

(f) Advocates; and

(g) Behavioral health providers.

(6) The stakeholder group established in subsection (5) of this section shall begin meeting after July 28, 2019, and assist the department in design of the child welfare housing assistance ((~~pilot~~)) program in areas including, but not limited to:

(a) Equitable racial, geographic, ethnic, and gender distribution of program support;

(b) Eligibility criteria;

(c) Creating a definition of homeless for purposes of eligibility for the program; and

(d) Options for program design that include outside entities operating the entire program or specific parts of the program.

(7) ((~~By December 1, 2021~~)) Beginning November 1, 2024, the department shall annually report data and outcomes for the child welfare housing assistance ((~~pilot~~)) program to the ((~~oversight board for children, youth, and families established pursuant to RCW 43.216.015~~)) legislature. ((~~The~~)) At a minimum,

when available, the report must include ((~~racial, geographic, ethnic, and gender distribution of program support~~)) the following information:

(a) Distribution of the child welfare housing assistance program by race, geography, ethnicity, and gender including a discussion of whether this distribution was equitable; and

(b) Any recommendations for legislative changes to the child welfare housing assistance program.

(8) The child welfare housing assistance ((~~pilot~~)) program established in this section is subject to the availability of funds appropriated for this purpose.

(((~~(9) This section expires June 30, 2023.~~)))

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2023.

Passed by the Senate April 17, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 322

[Second Substitute Senate Bill 5269]

MANUFACTURING—INDEPENDENT ASSESSMENT AND INDUSTRIAL STRATEGY

AN ACT Relating to transforming and growing Washington state manufacturing; adding a new section to chapter 43.330 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

***NEW SECTION.** Sec. 1. The legislature finds and declares that:*

(1) In 2021, Washington state set an aspirational goal in statute to double manufacturing jobs, firms, and the participation of women and minorities in the ownership of manufacturing firms. To create and maintain unity around the state manufacturing growth target, chapter 64, Laws of 2021 sought to foster a partnership between business and labor. It established a manufacturing council with membership that was intentionally balanced equally between business and labor and represented the geographic and demographic diversity of the state. The manufacturing council was tasked with advising the department of commerce on policy recommendations to strengthen the manufacturing sector by 2030 and submitting reports to the legislature every two years containing those recommendations.

(2) The legislature intends for an independent assessment of growth opportunities in clean manufacturing to be considered by the manufacturing council. Furthermore, the legislature intends that a state industrial strategy that incorporates any input from the independent assessment not be published in any form or considered the state strategy until there is consensus of the manufacturing council on the recommendations and policies to be included in that strategy.

(3) Washington state, with its strong climate commitments, highly skilled workforce, and existing world-class manufacturing base is well positioned to be a global leader in clean manufacturing.

(4) A strong state and domestic manufacturing sector can provide stable, high-wage jobs and is a prerequisite to achieving Washington state's statutory commitment to net zero greenhouse gas emissions by 2050.

(5) All Washingtonians deserve the opportunity of a high-road manufacturing career. In building the Washington manufacturing workforce pipeline, the state should fully leverage the transferable skills of our existing manufacturing workforce and develop a comprehensive, in-state pipeline with wraparound services and equitable opportunities to ensure that every Washingtonian has a fair shake at a manufacturing career and intergenerational well-being and career growth opportunities.

(6) A holistic and coordinated state industrial strategy that seeks simultaneously to transform and revitalize Washington state's manufacturing base is vital to prevent the leakage of jobs and carbon pollution.

(7) Washington has demonstrated a deep commitment to growing manufacturing. In 2021, the legislature set a goal of doubling the state's manufacturing base over 10 years. In 2022, the legislature created tax incentives and updated siting and permitting practices to accelerate the in-state production of clean energy product manufacturing. Developing a statewide industrial strategy is an important complement to accelerate progress and maximize the benefit of new tax incentives and siting and permitting practices.

(8) The bipartisan infrastructure act and inflation reduction act present a once in a generation opportunity to rapidly transform and grow Washington's manufacturing base in a way that advances the state's climate goals. The state has an important role to play in ensuring that Washington fully leverages federal funding opportunities and that the benefits are shared equitably.

(9) Washington must take steps to ensure that the transformation and growth of the state's manufacturing base simultaneously addresses and does not contribute to the disproportionate burden of pollution on overburdened communities.

****Sec. 1 was vetoed. See message at end of chapter.***

NEW SECTION. **Sec. 2.** (1) The department of commerce must perform an independent assessment of opportunities for Washington to capture new and emerging industries that align with statewide greenhouse gas reduction limits and strengthen its existing manufacturing base. By October 1, 2024, and in compliance with RCW 43.01.036, the department of commerce shall submit the independent assessment to the appropriate committees of the legislature, and shall submit the assessment to the state manufacturing council established in RCW 43.330.762.

(2) By June 1, 2025, the department of commerce must develop a proactive state industrial strategy that seeks to strengthen and transform Washington's existing manufacturing base and capture new and emerging industries. The strategy should be informed by the independent assessment required by subsection (1) of this section. The manufacturing council convened pursuant to RCW 43.330.762 shall advise and consult on the development of the strategy.

(3) The independent assessment must include, but is not limited to:

(a) Assessing how the transition to net-zero emissions by 2050 will impact the potential futures of manufacturing in Washington, including identifying specific opportunities for Washington to actively seek investment in new and

emerging industries and to transform and strengthen the state's existing manufacturing base to meet the needs of a net-zero economy, taking into account the Washington's existing key sectors, job quality, and regional diversity;

(b) Assessing the needs of Washington's existing manufacturers, including supply chain challenges and resources required to meet the statutory greenhouse gas emissions reductions in RCW 70A.45.020;

(c) Identifying opportunities to build and maximize the environmental and economic benefits of a circular economy for both new and existing industries in building out and strengthening Washington's manufacturing base;

(d) Identifying what is required to attract new private investment and transform and strengthen Washington's existing manufacturing base, including needs related to:

(i) Transportation and port infrastructure;

(ii) Supply chains;

(iii) Workforce; and

(iv) Energy;

(e) Identifying opportunities to support minority and women-owned firms and small and medium-sized firms in capturing new and emerging industries;

(f) Identifying existing and potential future gaps in the state's manufacturing sector that inhibit in-state manufacturers from producing the necessary goods, services, and infrastructure to transition to the net-zero economy and attract new investment in the state to accelerate the in-state production of clean energy product manufacturing; and

(g) Evaluating opportunities for the state's use of public ownership investment in developed and emerging manufacturing industries to address the existing and potential future gaps identified in (f) of this subsection. This evaluation shall provide recommendations on the highest and best uses of public resources as part of the state industrial strategy as provided in subsection (2) of this section.

(4) The workforce assessment referenced in subsection (3)(d)(iii) of this section should: (a) Catalogue and examine how to maximize the use of the existing manufacturing workforce's transferable skills; (b) address any remaining skills gaps and identify opportunities to build a manufacturing workforce pipeline that ensures all current and future Washingtonians have fair access to a manufacturing career by sector; and (c) ensure equitable and accessible pathways and advancement opportunities in manufacturing by sector.

(5) The energy assessment referenced in subsection (3)(d)(iv) of this section should include the quantity, price, and location of electricity necessary to decarbonize and grow Washington's existing manufacturing base and capture new and emerging industries.

(6) The independent assessment will not replace but may inform the work of the manufacturing council created in RCW 43.330.762 to advise and consult on the department of commerce's recommendations to achieve the goals established in RCW 43.330.760.

NEW SECTION. **Sec. 3.** (1) The department of commerce must appoint an industrial policy advisor to ensure that Washington state fully leverages available federal funding for manufacturing to meet the state's economic development goals in RCW 43.330.760 and the statutory greenhouse gas

emissions reductions in RCW 70A.45.020 and guide the implementation of the state industrial strategy created pursuant to section 2 of this act.

(2) The industrial policy advisor must:

(a) Track federal and other funding opportunities to transform and strengthen existing Washington manufacturers and promote the growth of new and emerging industries;

(b) Alert Washington manufacturers to relevant federal and other funding opportunities;

(c) Support Washington manufacturers in applying for federal and other funding opportunities and in completing required reporting;

(d) Work to ensure that Washington's pursuit of its goals in RCW 43.330.760 and 70A.45.020 are aligned and mutually reinforcing;

(e) Foster interagency and coordination and collaboration, including with the department of commerce sector leads, on manufacturing-related policymaking and activities, including both climate and economic development manufacturing-related policymaking;

(f) Coordinate with the workforce innovation sector lead, particularly with respect to building the manufacturing workforce pipeline; and

(g) Provide quarterly reports to the manufacturing council created in RCW 43.330.762.

(3) The industry policy advisor may also:

(a) Form expert committees with industry representatives to develop sector-specific strategies for attracting new investment and transforming and strengthening existing manufacturing consistent with the industrial strategy created pursuant to section 2 of this act;

(b) Assist local governments with economic plans to attract new investment and transform and strengthen existing manufacturing consistent with the industrial strategy created pursuant to section 2 of this act; and

(c) Support communities negatively impacted by the closure or relocation of manufacturing facilities by supporting efforts to attract new investment consistent with the industrial strategy created pursuant to section 2 of this act and facilitate the movement of existing skilled manufacturing workers into new industrial sectors.

NEW SECTION. **Sec. 4.** This act may be known and cited as the Washington clean manufacturing leadership act.

NEW SECTION. **Sec. 5.** Section 2 of this act is added to chapter 43.330 RCW and codified with the subchapter heading of "MANUFACTURING AND RESEARCH AND DEVELOPMENT SECTOR PROMOTION."

Passed by the Senate April 14, 2023.

Passed by the House April 6, 2023.

Approved by the Governor May 4, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 5, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 1, Second Substitute Senate Bill No. 5269 entitled:

"AN ACT Relating to transforming and growing Washington state manufacturing."

I am vetoing Section 1, the intent section, because it includes language that conflicts with the direction to Department of Commerce in the body of the bill about engaging the manufacturing council in the development of the state's industrial policy.

For these reasons I have vetoed Section 1 of Second Substitute Senate Bill No. 5269.

With the exception of Section 1, Second Substitute Senate Bill No. 5269 is approved."

CHAPTER 323

[Engrossed Second Substitute Senate Bill 5278]

HOME CARE AIDE CERTIFICATION—EXAMINATIONS

AN ACT Relating to implementing audit recommendations to reduce barriers to home care aide certification; amending RCW 18.88B.031; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) Long-term care supports people who need help meeting their health or personal care needs due to age or disabling conditions. Maintaining an adequate workforce of long-term care workers is critical to the system.

(2) Current law requires that home care aides complete required training and pass a test to become certified. A 2022 performance audit found that many home care aide applicants faced barriers in scheduling the test, challenges getting to the test site, and often delays of months between completing training and taking the test. Barriers and inefficiencies in this process were cited as a primary reason for many applicants dropping out prior to becoming certified.

(3) The legislature finds that improvements in this process and the reduction of barriers are necessary to ensure an adequate home care workforce.

Sec. 2. RCW 18.88B.031 and 2012 c 164 s 304 are each amended to read as follows:

(1) Except as provided in RCW 18.88B.041 and subject to the other requirements of this chapter, to be certified as a home care aide, a long-term care worker must successfully complete the training required under RCW 74.39A.074(1) and a certification examination. Any long-term care worker failing to make the required grade for the examination may not be certified as a home care aide.

(2) The department, in consultation with consumer and worker representatives, shall develop a home care aide certification examination to evaluate whether an applicant possesses the skills and knowledge necessary to practice competently. ((~~Except as provided by RCW 18.88B.041(1)(a)(ii), only those who have completed the training requirements in RCW 74.39A.074(1) shall be eligible to sit for this examination.~~))

(3) The examination or series of examinations shall include both a skills demonstration and a written or oral knowledge test. ((~~The examination papers, all grading of the papers, and records related to the grading of skills demonstration shall be preserved for a period of not less than one year.~~)) The department shall establish rules governing the number of times and under what circumstances individuals who have failed the examination may sit for the examination, including whether any intermediate remedial steps should be required. The skills demonstration, the knowledge test, or both, may be

administered throughout training, on the last day of training, or after a student's formal training. An applicant may apply to take the examination during or after training. An applicant may not sit for any part of the examination prior to completing the part of the training associated with that part of the examination. The examination or series of examinations may be conducted at local testing sites around the state. For the purpose of reducing the travel time for applicants, the department shall explore alternative testing options such as remote testing.

(4)(a) All examinations shall be conducted by fair and wholly impartial methods. All examinations shall be available to be administered in the preferred language for the applicant taking the examination. The certification examination shall be administered and evaluated by ((~~the~~)):

(i) The department ((~~or by a~~));

(ii) A contractor to the department that is ((~~neither~~)) not an employer of long-term care workers ((~~or a private contractor providing training services under this chapter.~~)) unless the employer is a department of social and health services approved instructor and has met the department standards for administering the examination; or

(iii) A high school or community college that has met department standards for administering the examination.

(b) The department shall conduct an annual evaluation of the examination results of applicants who complete the examination in a language other than English. If the department finds that applicants taking the examination in a particular language fail at a disproportionately higher rate than other examination takers, the department shall conduct a review of the translation to ensure that it is accurate and understandable.

(5) The department shall adopt rules to implement this section.

NEW SECTION. **Sec. 3.** (1) The department of health, in consultation with the department of social and health services and other relevant participants, shall:

(a) Devise a system that reduces delays between training and testing for home care aides that includes the following:

(i) Developing and implementing a plan to integrate testing into training that allows applicants to test at the same location where they train;

(ii) Allowing remote testing within home care aide training programs immediately or shortly after completion of the program; and

(iii) Determining the benefits and costs of having home care aide training programs authorize applicants to test instead of the department of health;

(b) Examine existing challenges related to a lack of testing sites and develop a plan, including an estimation of costs, to expand testing sites, which shall include the following considerations:

(i) Applicant travel time and availability of testing for comparable professions;

(ii) How many test sites are needed, where these sites should be located, and the best way to establish appropriate partnerships that can lead to new test sites;

(iii) How often test sites should be available to applicants; and

(iv) Whether there are areas of the state where a stipend for travel expenses would be beneficial and appropriate protocols for travel stipends;

(c) Establish performance measures and data collection criteria to monitor the overall length of time between training and testing and the number of available test sites;

(d) Establish accountability mechanisms for the overall training to testing process; and

(e) Establish performance-based contracts for vendors who administer the tests that include the following:

(i) All key performance measures expected, including a definition of what sufficient access to test sites entails; and

(ii) Detailed vendor costs.

(2)(a) When completing the requirements of subsection (1) of this section, the department of health shall ensure that its decisions are informed by existing data on test completion, including passage and failure rates for both parts of the examination.

(b) When conducting the examination under subsection (1)(b) of this section, the department of health shall:

(i) Use various geographic measures, including by county and by zip code; and

(ii) Conduct a survey of all approved testing locations in Washington to determine their current capacity for offering tests and their potential capacity to offer tests if not for the lack of available proctors.

(3) The department of health, in consultation with the department of social and health services and other relevant participants, shall submit to the governor and the appropriate committees of the legislature a preliminary report no later than June 30, 2024, and a final report no later than December 31, 2024, that includes a summary of the work conducted in accordance with the requirements specified in subsection (1) of this section and any recommendations for improvement.

(4) This section expires July 30, 2026.

Passed by the Senate April 17, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 324

[Senate Bill 5287]

WIND TURBINE BLADE RECYCLING—STUDY

AN ACT Relating to a study on the recycling of wind turbine blades; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) Subject to amounts appropriated for this specific purpose in the omnibus operating appropriations act, the Washington State University extension energy program must conduct a study on the feasibility of recycling wind turbine blades installed at facilities in Washington that generate electricity for distribution to customers in Washington, including information and recommendations on:

(a) The cost, feasibility, and environmental impact of various disposal methods for wind turbine blades including, but not limited to, options for reuse, repurposing, and recycling;

(b) The availability of wind turbine blade recycling and processing facilities in Washington and other states;

(c) Potential incentives for the creation of wind turbine blade recycling facilities within Washington;

(d) Various mechanisms for establishing recycling requirements, or recycled content standards, for wind turbine blades;

(e) Considerations and options for the design of a state-managed product stewardship program for wind turbine blades; and

(f) The feasibility of including all wind turbine blades installed in facilities in Washington in a recycling program, including blades that are currently installed.

(2) By December 1, 2023, the Washington State University extension energy program must submit a report of its findings under this section to the appropriate committees of the legislature.

(3) This section expires December 1, 2024.

Passed by the Senate April 17, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 325

[Substitute Senate Bill 5300]

PRESCRIPTION DRUGS FOR BEHAVIORAL HEALTH—CONTINUITY OF COVERAGE

AN ACT Relating to continuity of coverage for prescription drugs prescribed for the treatment of behavioral health conditions; amending RCW 69.41.190; adding a new section to chapter 48.43 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, for health plans that include prescription drug coverage issued or renewed on or after January 1, 2025, a health carrier or its health care benefit manager may not require the substitution of a nonpreferred drug with a preferred drug in a given therapeutic class, or increase an enrollee's cost-sharing obligation mid-plan year for the drug, if the prescription is for a refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the enrollee to treat a serious mental illness, the enrollee is medically stable on the drug, and a participating provider continues to prescribe the drug.

(2) Nothing in this section prohibits:

(a) The carrier from requiring generic substitution during the current plan year;

(b) The carrier from adding new drugs to its formulary during the current plan year;

(c) The carrier from removing a drug from its formulary for reasons of patient safety concerns, drug recall or removal from the market, or medical evidence indicating no therapeutic effect of the drug; or

(d) A participating provider from prescribing a different drug that is covered by the plan and medically appropriate for the enrollee.

(3) For the purposes of this section:

(a) "Refill" means a second or subsequent filling of a previously issued prescription.

(b) "Serious mental illness" means a mental disorder, as defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association, that results in serious functional impairment that substantially interferes with or limits one or more major life activities.

Sec. 2. RCW 69.41.190 and 2011 1st sp.s. c 15 s 80 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, any pharmacist filling a prescription under a state purchased health care program as defined in RCW 41.05.011((~~(2)~~)) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the patient to treat a serious mental illness, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of a immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least ((~~twenty-four~~)) 24 weeks but no more than ((~~forty-eight~~)) 48 weeks, in which case the pharmacist shall dispense the prescribed nonpreferred drug.

(b) When a substitution is made under (a) of this subsection, the dispensing pharmacist shall notify the prescribing practitioner of the specific drug and dose dispensed.

(2)(a) A state purchased health care program may impose limited restrictions on an endorsing practitioner's authority to write a prescription to dispense as written only under the following circumstances:

(i) There is statistical or clear data demonstrating the endorsing practitioner's frequency of prescribing dispensed as written for nonpreferred drugs varies significantly from the prescribing patterns of his or her peers;

(ii) The medical director of a state purchased health program has: (A) Presented the endorsing practitioner with data that indicates the endorsing practitioner's prescribing patterns vary significantly from his or her peers, (B) provided the endorsing practitioner an opportunity to explain the variation in his or her prescribing patterns to those of his or her peers, and (C) if the variation in prescribing patterns cannot be explained, provided the endorsing practitioner sufficient time to change his or her prescribing patterns to align with those of his or her peers; and

(iii) The restrictions imposed under (a) of this subsection (2) must be limited to the extent possible to reduce variation in prescribing patterns and shall remain in effect only until such time as the endorsing practitioner can demonstrate a reduction in variation in line with his or her peers.

(b) A state purchased health care program may immediately designate an available, less expensive, equally effective generic product in a previously reviewed drug class as a preferred drug, without first submitting the product to review by the pharmacy and therapeutics committee established pursuant to RCW 70.14.050.

(c) For a patient's first course of treatment within a therapeutic class of drugs, a state purchased health care program may impose limited restrictions on endorsing practitioners' authority to write a prescription to dispense as written, only under the following circumstances:

(i) There is a less expensive, equally effective therapeutic alternative generic product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation;

(iii) Notwithstanding the limitation set forth in (c)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the brand name drug be prescribed as the first course of treatment;

(iv) The state purchased health care program may provide, where available, prescription, emergency room, diagnosis, and hospitalization history with the endorsing practitioner; and

(v) Specifically for antipsychotic restrictions, the state purchased health care program shall effectively guide good practice without interfering with the timeliness of clinical decision making. Health care authority prior authorization programs must provide for responses within ((~~twenty-four~~)) 24 hours and at least a ((~~seventy-two~~)) 72 hour emergency supply of the requested drug.

(d) If, within a therapeutic class, there is an equally effective therapeutic alternative over-the-counter drug available, a state purchased health care program may designate the over-the-counter drug as the preferred drug.

(e) A state purchased health care program may impose limited restrictions on endorsing practitioners' authority to prescribe pharmaceuticals to be dispensed as written for a purpose outside the scope of their approved labels only under the following circumstances:

(i) There is a less expensive, equally effective on-label product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation; and

(iii) Notwithstanding the limitation set forth in (e)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the drug be prescribed for a covered off-label purpose.

(f) The provisions of this subsection related to the definition of medically necessary, prior authorization procedures and patient appeal rights shall be implemented in a manner consistent with applicable federal and state law.

(3) Notwithstanding the limitations in subsection (2) of this section, for refills for an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the patient to treat a serious mental illness, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of an immunomodulator antiviral treatment for hepatitis C for which an established, fixed duration of therapy is

prescribed for at least ((~~twenty-four~~)) 24 weeks by no more than ((~~forty-eight~~)) 48 weeks, the pharmacist shall dispense the prescribed nonpreferred drug.

(4) For the purposes of this section, "serious mental illness" means a mental disorder, as defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association, that results in serious functional impairment that substantially interferes with or limits one or more major life activities.

NEW SECTION. **Sec. 3.** Section 2 of this act takes effect January 1, 2025.

Passed by the Senate April 17, 2023.
Passed by the House April 6, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 326

[Substitute Senate Bill 5317]

REGIONAL TRANSIT AUTHORITIES—REMOVAL OF UNAUTHORIZED VEHICLES

AN ACT Relating to the removal of vehicles by a regional transit authority when obstructing the operation of high capacity transportation vehicles or jeopardizing public safety; amending RCW 46.55.010; and reenacting RCW 46.55.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.55.010 and 2022 c 186 s 708 are each amended to read as follows:

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

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in the operator's possession for 120 consecutive hours.

(2) "Immobilize" means the use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents the vehicle from moving without damage to the tire to which the locking wheel boot is attached.

(3) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(4) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(5) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield, or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Has an approximate fair market value equal only to the approximate value of the scrap in it.

(6) "Master log" means the document or an electronic facsimile prescribed by the department and the Washington state patrol in which an operator records transactions involving impounded vehicles.

(7) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(8) "Residential property" means property that has no more than four living units located on it.

(9) "Suspended license impound" means an impound ordered under RCW 46.55.113 because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345.

(10) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the state patrol.

(11) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(12) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(13) "Tow truck service" means the transporting upon the public streets and highways of this state of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(14) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

		Subject to removal after:
(a)	Public locations:	
(i)	Constituting an accident or a traffic hazard as defined in RCW 46.55.113	Immediately
(ii)	On a highway and tagged as described in RCW 46.55.085	24 hours
(iii)	In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070	Immediately
(iv)	((~~During the 2021-2023 fiscal biennium, within the~~)) Within the right-of-way used by a regional transit authority for high capacity transportation where the vehicle constitutes an obstruction to the operation of high capacity transportation vehicles or jeopardizes public safety	Immediately
(b)	Private locations:	
(i)	On residential property	Immediately

(ii) On private, nonresidential property, properly posted under RCW 46.55.070 . . . . . Immediately

(iii) On private, nonresidential property, not posted . . . . . 24 hours

Sec. 2. RCW 46.55.080 and 2022 c 186 s 709 are each reenacted to read as follows:

(1) If a vehicle is in violation of the time restrictions of RCW 46.55.010(14), it may be impounded by a registered tow truck operator at the direction of a law enforcement officer, authorized regional transit authority representative under the conditions described in RCW 46.55.010(14)(a)(iv), or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or an agent if it is on private property. A law enforcement officer may also direct the impoundment of a vehicle pursuant to a writ or court order.

(2) The person requesting a private impound or a law enforcement officer, authorized regional transit authority representative, or public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound. A registered tow truck operator, employee, or his or her agent may not serve as an agent of a property owner for the purposes of signing an impound authorization or, independent of the property owner, identify a vehicle for impound.

(3) In the case of a private impound, the impound authorization shall include the following statement: "A person authorizing this impound, if the impound is found in violation of chapter 46.55 RCW, may be held liable for the costs incurred by the vehicle owner."

(4) A registered tow truck operator shall record and keep in the operator's files the date and time that a vehicle is put in the operator's custody and released. The operator shall make an entry into a master log regarding transactions relating to impounded vehicles. The operator shall make this master log available, upon request, to representatives of the department or the state patrol.

(5) A person who engages in or offers to engage in the activities of a registered tow truck operator may not be associated in any way with a person or business whose main activity is authorizing the impounding of vehicles.

Passed by the Senate April 17, 2023.
Passed by the House March 24, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 327

[Senate Bill 5323]

DEPARTMENT OF VETERANS AFFAIRS—VARIOUS PROVISIONS

AN ACT Relating to the department of veterans affairs regarding exempt staff and exempt staff appointments, removing reference to one-time use of funds, and exempting veteran discharge papers from public disclosure; amending RCW 41.06.077, 43.60A.140, 72.36.020, and 42.56.440;

adding a new section to chapter 43.60A RCW; and repealing RCW 72.36.040, 72.36.050, 72.36.055, and 72.36.077.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.06.077 and 2001 c 84 s 1 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of veterans affairs to the director, the deputy director, no more than two assistant directors, administrators and directors of nursing services at each state veterans' home, a confidential secretary for the deputy director, and a confidential secretary for each assistant director.

Sec. 2. RCW 43.60A.140 and 2019 c 415 s 965 are each amended to read as follows:

(1) The veterans stewardship account is created in the custody of the state treasurer. Disbursements of funds must be on the authorization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by the issuance of the armed forces license plate collection under chapter 46.18 RCW.

(3) All receipts from the sale of armed forces license plates and Purple Heart license plates as required under RCW 46.68.425(2) must be deposited into the veterans stewardship account.

(4) All moneys deposited into the veterans stewardship account must be used by the department for activities that benefit veterans or their families, including but not limited to, providing programs and services for homeless veterans; establishing memorials honoring veterans; and maintaining ((~~a future~~)) state veterans' ((~~cemetery~~)) cemeteries. Funds from the account may not be used to supplant existing funds received by the department. ((~~For the 2019-2021 fiscal biennium, moneys deposited into the veterans stewardship account may be used for the department's traumatic brain injury program.~~))

NEW SECTION. **Sec. 3.** The following acts or parts of acts are each repealed:

(1) RCW 72.36.040 (Colony established—Who may be admitted) and 2008 c 6 s 504 & 1977 ex.s. c 186 s 2;

(2) RCW 72.36.050 (Regulations of home applicable—Rations, medical attendance, clothing) and 2008 c 6 s 505, 1979 c 65 s 1, 1973 1st ex.s. c 154 s 103, 1967 c 112 s 1, & 1959 c 28 s 72.36.050;

(3) RCW 72.36.055 (Domiciliary and nursing care) and 2014 c 184 s 5, 2001 2nd sp.s. c 4 s 4, & 1977 ex.s. c 186 s 6; and

(4) RCW 72.36.077 (Eastern Washington veterans' home—Funding—Intent) and 2001 2nd sp.s. c 4 s 1.

Sec. 4. RCW 72.36.020 and 2018 c 45 s 3 are each amended to read as follows:

The director of the department of veterans affairs shall appoint an administrator and director of nursing services for each state veterans' home. The

administrator shall exercise management and control of the institution in accordance with either policies or procedures promulgated by the director of the department of veterans affairs, or both, and rules of the department. In accordance with chapter 18.52 RCW, the individual appointed as administrator for a state veterans' home shall be a licensed nursing home administrator and the agency shall provide preference to honorably discharged veterans in accordance with RCW 73.16.010. The director of nursing services shall be a registered nurse licensed in the state of Washington and is a position exempt from chapter 41.06 RCW.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.60A RCW to read as follows:

(1) For the protection of applicants and clients, the department and its respective officers and employees are prohibited, except as provided in subsection (2) of this section, from disclosing veteran discharge or separation documents, such as DD Form 214 or NGB Form 22. Such records shall be confidential and not subject to disclosure except as provided in subsection (2) of this section.

(2) The provisions of this section do not apply to:

(a) A veteran requesting the veteran's own discharge or separation documents;

(b) A veteran's next of kin;

(c) A deceased veteran's properly appointed personal representative or executor;

(d) A person holding a veteran's general power of attorney;

(e) Duly designated representatives of accredited veterans service organizations; or

(f) Sharing agreements among other government entities.

(3) For purposes of this section, "next of kin" means any of the following: An unremarried widow or widower, son, daughter, father, mother, brother, or sister of a deceased veteran.

Sec. 6. RCW 42.56.440 and 2005 c 274 s 424 are each amended to read as follows:

(1) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents are exempt from disclosure under this chapter. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(2) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records are exempt from disclosure under this chapter, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(3) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(4) For the purposes of this section, next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(5) Veteran discharge or separation documents held by the department of veterans affairs are confidential and not subject to disclosure except as provided in section 5 of this act.

Passed by the Senate February 15, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 328

[Engrossed Senate Bill 5355]

SCHOOL DISTRICTS—SEX TRAFFICKING AWARENESS AND PREVENTION INSTRUCTION

AN ACT Relating to mandating instruction on sex trafficking prevention and identification for students in grades seven through 12; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.300 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that:

(1) The United States has the second largest concentration of past and current trafficking victims, and Washington state is currently the sixth largest epicenter of sex trafficking in the United States.

(2) More than 45 percent of all sex trafficking victims are minors and attending our nation's schools every day.

(3) Currently, most trafficking avoids detection, with one study from the national institute of justice finding that "fewer than half of all suspected traffickers in the United States had been arrested." Recent national institute of justice supported research reveals that labor and sex trafficking data appearing in the federal bureau of investigation's national uniform crime reporting program may significantly understate the extent of trafficking crimes in the United States.

(4) The undefined nature of human trafficking contributes to widespread ignorance for public agencies in a position to address the crime. Sixty percent of state and local prosecutors nationwide "do not consider trafficking a problem in their jurisdictions," and over 70 percent of local, state, and county law enforcement agencies wrongly "view human trafficking as rare or nonexistent" in their local communities.

(5) Nearly half of prosecutors and law enforcement agencies across the country are unaware of specific existing antitrafficking laws or definitions that

constitute acts of human trafficking, which manifests in current ineffective mitigation strategies.

(6) Child sex trafficking survivors are disproportionately girls of color. In King county, 52 percent of all child sex trafficking victims are black and 84 percent of youth victims are female, while black girls comprise 1.1 percent of the population.

(7) Sex traffickers are not overgeneralized to any demographic but are disproportionately white men. In King county, 80 percent of sex traffickers are white men.

(8) Females of color bear the brunt of prostitution imprisonment as a result of sexual violence in sex trafficking due to mandatory arrests. For example, Latinx women account for nearly 61 percent of juvenile prostitution arrests. By contrast, sex traffickers face little to no consequences for their role in exploitation.

(9) Twenty-five service agencies participated in a 2007 survey. Nineteen of these agencies provided information that aligned with what are understood to be "red-flag" indicators of trafficking situations. Victimization and human trafficking are considerable concerns for eastern Washington, particularly Spokane, and there is a wide spectrum of trafficking activities that include sex slavery, forced prostitution, forced panhandling, farm labor, janitorial work, and domestic servitude.

(10) On any given day, between 300 and 500 people, some as young as 11 years old, are trafficked in the Puget Sound area for labor or sex.

(11) Intersectional, accurate, and actionable sex trafficking education is necessary to enable all students to break down stereotypes of affected parties in sex trafficking and provide them with tools for identifying and combatting this crime.

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

(1) Beginning no later than the 2025-26 school year, school districts must offer instruction in sex trafficking awareness and prevention. The instruction may be offered beginning in grade seven, but each student must be offered the instruction at least once beforecompleting grade 12. The instruction, at the discretion of the school or school district, may be integrated into a relevant course or a course may be repurposed to include the instruction.

(2) Subject to the availability of amounts appropriated for this specific purpose, on or before June 30, 2024, the office of the superintendent of public instruction must review curricula related to the awareness and prevention of sex trafficking.

(3) To the extent practicable, the office of the superintendent of public instruction must make available in the library of openly licensed courseware under RCW 28A.300.803, curricular resources related to the awareness and prevention of sex trafficking that include:

(a) Information about the race, gender, and socioeconomic status of sex trafficking victims and perpetrators;

(b) Medically and legally accurate definitions of sex trafficking, and information about term stigmatization and how it may reduce reporting and increase the difficulty of detecting and prosecuting sex trafficking crimes;

(c) Information about reporting systems and community engagement opportunities with local, state, or national organizations against sex trafficking, and basic identification training to determine if an individual is at risk of or has been sex trafficked; and

(d) Information to help students recognize the signs and behavior changes in others that may indicate grooming for sex trafficking or other unlawful, coercive relationships.

(4) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020, and applies to charter schools established under chapter 28A.710 RCW and state-tribal education compact schools established under chapter 28A.715 RCW to the same extent as it applies to school districts.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

The child sexual abuse and sex trafficking prevention and identification public-private partnership account is created in the custody of the state treasurer. All receipts from gifts, grants, or endowments from public or private sources, federal funds, and any appropriations made by the legislature or other sources must be deposited into the account. Expenditures from the account may be used only for curriculum and professional development to support instruction on child sexual abuse and sex trafficking prevention and identification. Only the superintendent of public instruction or the superintendent's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Passed by the Senate April 17, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 329

[Second Substitute Senate Bill 5425]

FIRE PROTECTION SPRINKLER SYSTEM CONTRACTORS—VARIOUS PROVISIONS

AN ACT Relating to fire protection sprinkler system contractors; amending RCW 18.160.030, 18.160.050, 18.160.120, 18.270.020, and 18.270.070; adding a new section to chapter 18.160 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.160.030 and 2003 c 74 s 1 are each amended to read as follows:

(1) This chapter shall be administered by the state director of fire protection.

(2) The state director of fire protection shall have the authority, and it shall be his or her duty to:

(a) Issue such administrative regulations as necessary for the administration of this chapter;

(b)(i) Set reasonable fees for licenses, certificates, testing, and other aspects of the administration of this chapter. However, the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-D fire protection sprinkler systems shall

not exceed ((~~one hundred dollars~~)) $125, and the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-R fire protection sprinkler systems shall not exceed ((~~three hundred dollars~~)) $375;

(ii) Adopt rules establishing a special category restricted to contractors registered under chapter 18.27 RCW who install underground systems that service fire protection sprinkler systems. The rules shall be adopted within ((~~ninety~~)) 90 days of March 31, 1992;

(iii) Subject to RCW 18.160.120, adopt rules defining infractions under this chapter and fines to be assessed for those infractions;

(c) Enforce the provisions of this chapter;

(d) Conduct investigations of complaints to determine if any infractions of this chapter or the regulations developed under this chapter have occurred;

(e) Assign a certificate number to each certificate of competency holder; and

(f) Adopt rules necessary to implement and administer a program which requires the affixation of a seal any time a fire protection sprinkler system is installed, which seal shall include the certificate number of any certificate of competency holder who installs, in whole or in part, the fire protection sprinkler system.

Sec. 2. RCW 18.160.050 and 2018 c 37 s 1 are each amended to read as follows:

(1)(a) All certificate of competency holders that desire to continue in the fire protection sprinkler business shall annually, prior to January 1st, secure from the state director of fire protection a renewal certificate of competency upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the certificate holder shall furnish the information required by the director.

(b) Failure of any certificate of competency holder to secure his or her renewal certificate of competency within ((~~sixty~~)) 60 days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the certificate of competency.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a certificate of competency that has been suspended for failure to pay the renewal fee.

(d) A certificate of competency holder may voluntarily surrender his or her certificate of competency to the state director of fire protection and be relieved of the annual renewal fee. After surrendering the certificate of competency, he or she shall not be known as a certificate of competency holder and shall desist from the practice thereof. Within two years from the time of surrender of the certificate of competency, he or she may again qualify for a certificate of competency, without examination, by the payment of the required fee. If two or more years have elapsed, he or she shall return to the status of a new applicant.

(2)(a) All licensed fire protection sprinkler system contractors desiring to continue to be licensed shall annually, prior to January 1st, secure from the state director of fire protection a renewal license upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall

be upon a form prescribed by the state director of fire protection and the license holder shall furnish the information required by the director.

(b) Failure of any license holder to secure his or her renewal license within ((~~sixty~~)) 60 days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the license.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a license that has been suspended for failure to pay the renewal fee.

(3) The initial certificate of competency or license fee shall be prorated based upon the portion of the year such certificate of competency or license is in effect, prior to renewal on January 1st.

(4) The fire protection contractor license fund is created in the custody of the state treasurer. ((~~All~~)) Except for penalties received under RCW 18.160.120, all receipts from license and certificate fees and charges or from the money generated by the rules and regulations promulgated under this chapter shall be deposited into the fund. Expenditures from the fund may be used only for purposes authorized under this chapter and for providing assistance in identifying fire sprinkler system components that have been subject to either a recall or voluntary replacement program by a manufacturer of fire sprinkler products, a nationally recognized testing laboratory, or the federal consumer product safety commission; and for use in developing and publishing educational materials related to the effectiveness of residential fire sprinklers. Assistance shall include, but is not limited to, aiding in the identification of recalled components, information sharing strategies aimed at ensuring the consumer is made aware of recalls and voluntary replacement programs, and providing training and assistance to local fire authorities, the fire sprinkler industry, and the public. Only the state director of fire protection or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

Sec. 3. RCW 18.160.120 and 2003 c 74 s 2 are each amended to read as follows:

(1) A fire protection sprinkler system contractor found to have committed an infraction under this chapter as defined in rule under RCW 18.160.030(2)(b)(iii) shall be assessed a fine of not less than ((~~two hundred dollars~~)) $300 and not more than ((~~five thousand dollars~~)) $7,500 for the first infraction, a fine of not less than $400 and not more than $10,000 for a second infraction by the same contractor, and a fine of not less than $1,000 and not more than $15,000 for the third and any subsequent infractions by the same contractor.

(2) A fire protection sprinkler system contractor who fails to obtain a certificate of competency under RCW 18.160.040 shall be assessed a fine of not less than ((~~one thousand dollars~~)) $1,500 and not more than ((~~five thousand dollars~~)) $7,500 for the first infraction, and a fine of not less than $2,500 and not more than $10,000 for a second infraction by the same contractor, and a fine of not less than $5,000 and not more than $25,000 for the third and any subsequent infractions by the same contractor.

(3) All fines collected under this section shall be deposited into the fire protection ((~~contractor license fund~~)) compliance account.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.160 RCW to read as follows:

The fire protection compliance account is created in the custody of the state treasurer. All fines collected under RCW 18.160.120 and the rules and regulations adopted under RCW 18.160.120 must be deposited into the account. Expenditures from the account may only be used for the purposes of enforcing this chapter. Only the state director of fire protection or their designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

Sec. 5. RCW 18.270.020 and 2007 c 435 s 3 are each amended to read as follows:

(1) No person may engage in the trade of fire protection sprinkler fitting without having a valid journey-level sprinkler fitter certificate, residential sprinkler fitter certificate, training certificate, or temporary certificate, with the exception of a certified plumber installing a residential fire protection sprinkler system connected to potable water requiring a plumbing certificate.

(2)(a) A person issued a training certificate under this chapter may perform fire protection sprinkler fitting work if that person is under supervision. Supervision must consist of the trainee being on the same jobsite and under the control of either a residential or journey-level fire protection sprinkler fitter certified to perform the type of work the trainee-level sprinkler fitter is performing. The ratio of trainees to certified fire protection sprinkler fitters on a jobsite is:

(i) For trainees performing residential fire protection sprinkler fitter work, not more than two trainees for every certified residential or journey-level fire protection sprinkler fitter; and

(ii) For trainees performing journey-level fire protection sprinkler fitter work, not more than one trainee for every certified journey-level fire protection sprinkler fitter.

(b) It is a violation of this chapter for a contractor to allow a trainee to perform sprinkler fitting work covered under this chapter without supervision or out of compliance with the ratios as prescribed in this subsection (2).

(3) No contractor may employ a person in violation of subsection (1) of this section to perform fire protection sprinkler fitting work.

(((~~(3)~~))) (4) A person found by the director to have committed an infraction under this chapter shall be assessed a monetary penalty as set by rule.

(((~~(4)~~))) (5) Each day in which a person engages in the trade of fire protection sprinkler fitting in violation of subsection (1) of this section, allows a trainee to work unsupervised or out of ratio in violation of subsection (2) of this section, or employs a person in violation of subsection (((~~(2)~~))) (3) of this section is considered a separate infraction.

Sec. 6. RCW 18.270.070 and 2007 c 435 s 8 are each amended to read as follows:

An authorized representative of the director ((~~may~~)) must investigate alleged violations of this chapter. Upon request of an authorized representative, a person performing fire protection sprinkler fitting or residential sprinkler fitting work must produce evidence of a certificate issued by the director in accordance

with this chapter. Failure to produce such evidence is an infraction as provided by RCW 18.270.020.

NEW SECTION. **Sec. 7.** This act takes effect January 1, 2024.

Passed by the Senate April 18, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 330

[House Bill 1020]

STATE DINOSAUR

AN ACT Relating to the state dinosaur; adding a new section to chapter 1.20 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the Suciasaurus rex, the first and, as of the effective date of this section, only dinosaur discovered in Washington state, should be designated as the state dinosaur. In May 2012, paleontologists discovered a portion of a left femur of a theropod dinosaur at Sucia Island state park in the San Juan Islands. Theropods are bipedal carnivorous dinosaurs that include Tyrannosaurus and Velociraptor. While scientists are unsure exactly what type of theropod the fossil belongs to, evidence suggests it may be a species similar to Daspletosaurus. The dinosaur has been nicknamed Suciasaurus rex.

Dinosaurs are not usually found in Washington because of its proximity to an active tectonic plate boundary and the high degree of human development. Some scientists believe the Suciasaurus rex lived somewhere between Baja California, Mexico, and northern California, and its fossil traveled to Washington along with a portion of the western edge of North America that was displaced to British Columbia in the Late Cretaceous period, but the fossil's exact location of origin remains controversial.

NEW SECTION. **Sec. 2.** A new section is added to chapter 1.20 RCW to read as follows:

The Suciasaurus rex is hereby designated as the official dinosaur of the state of Washington.

Passed by the House April 17, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

CHAPTER 331

[Substitute House Bill 1074]

RESIDENTIAL LANDLORD-TENANT ACT—LANDLORDS' CLAIMS FOR DAMAGE

AN ACT Relating to documentation and processes governing landlords' claims for damage to residential premises; amending RCW 59.18.260, 59.18.280, 59.18.060, 59.18.130, and 59.18.595; reenacting and amending RCW 59.18.030; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

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

(a) Deposits and moving fees often present significant barriers to helping low-income tenants secure new housing. Without clear guidance governing when landlords may withhold a security deposit for damage to a unit, renters are often unable to contest improper charges and fall into debt to their landlords;

(b) Low-income renters holding unpaid tenant debt face greater housing instability. Low-income renters can be barred from entering into new tenancies by debt to a previous landlord, even if that debt is based on undocumented, inflated, or fraudulent charges; and

(c) The burden of debt to a previous landlord falls most heavily on low-income renters, people with disabilities, single parents, and people with housing vouchers, who are disproportionately people of color.

(2) Therefore, the legislature intends to protect renters from the financial instability caused by improper and inflated damage charges that prevent tenants from receiving their deposit back, to ease the debt burden on renting families, and to reduce the disproportionate harm to low-income renters of color.

Sec. 2. RCW 59.18.030 and 2021 c 212 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Active duty" means service authorized by the president of the United States, the secretary of defense, or the governor for a period of more than 30 consecutive days.

(2) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of chapter 5.50 RCW by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(3) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(4) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past 30 days; (b) the

prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(5) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(6) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(7) "Distressed home" has the same meaning as in RCW 61.34.020.

(8) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(9) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(10) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(11) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(12) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(13) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(14) "Immediate family" includes state registered domestic partner, spouse, parents, grandparents, children, including foster children, siblings, and in-laws.

(15) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least 30 days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(16) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(17) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(18) "Orders" means written official military orders, or any written notification, certification, or verification from the service member's commanding officer, with respect to the service member's current or future military status.

(19) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(20) "Permanent change of station" means: (a) Transfer to a unit located at another port or duty station; (b) change in a unit's home port or permanent duty station; (c) call to active duty for a period not less than 90 days; (d) separation; or (e) retirement.

(21) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(22) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(23) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(24) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(25) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(26) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(27) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite

to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(28) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(29) "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. Except as provided in RCW 59.18.283(3), these terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees.

(30) "Rental agreement" or "lease" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(31) "Service member" means an active member of the United States armed forces, a member of a military reserve component, or a member of the national guard who is either stationed in or a resident of Washington state.

(32) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(33) "Subsidized housing" refers to rental housing for very low-income or low-income households that is a dwelling unit operated directly by a public housing authority or its affiliate, or that is insured, financed, or assisted in whole or in part through one of the following sources:

(a) A federal program or state housing program administered by the department of commerce or the Washington state housing finance commission;

(b) A federal housing program administered by a city or county government;

(c) An affordable housing levy authorized under RCW 84.52.105; or

(d) The surcharges authorized in RCW 36.22.178 and 36.22.179 and any of the surcharges authorized in chapter 43.185C RCW.

(34) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(35) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

(36) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(37) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

(38) "Transitional housing" means housing units owned, operated, or managed by a nonprofit organization or governmental entity in which supportive services are provided to individuals and families that were formerly homeless, with the intent to stabilize them and move them to permanent housing within a period of not more than ((~~twenty-four~~)) 24 months, or longer if the program is limited to tenants within a specified age range or the program is intended for tenants in need of time to complete and transition from educational or training or service programs.

(39) "Wear resulting from ordinary use of the premises" means deterioration that results from the intended use of a dwelling unit, including breakage or malfunction due to age or deteriorated condition. Such wear does not include deterioration that results from negligence, carelessness, accident, or abuse of the premises, fixtures, equipment, appliances, or furnishings by the tenant, immediate family member, occupant, or guest.

Sec. 3. RCW 59.18.260 and 2011 c 132 s 13 are each amended to read as follows:

(1) If any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a lease or rental agreement, the lease or rental agreement shall be in writing and shall include the terms and conditions under which the deposit or portion thereof may be withheld by the landlord upon termination of the lease or rental agreement. If all or part of the deposit may be withheld to indemnify the landlord for damages to the premises for which the tenant is responsible, the rental agreement shall be in writing and shall so specify.

(2) No deposit may be collected by a landlord unless the rental agreement is in writing and a written checklist or statement is provided by the landlord to the tenant at the commencement of the tenancy specifically describing the condition and cleanliness of or existing damages to the premises, fixtures, equipment, appliances, and furnishings((~~,~~)) including, but not limited to((~~, walls, floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the tenant at the commencement of the tenancy~~)):

(a) Walls, including wall paint and wallpaper;

(b) Carpets and other flooring;

(c) Furniture; and

(d) Appliances.

(3) The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or

statement. The tenant has the right to request one free replacement copy of the written checklist.

(4) No such deposit shall be withheld on account of ((~~normal~~)) wear ((~~and tear~~)) resulting from ordinary use of the premises((~~. The tenant has the right to request one free replacement copy of the written checklist~~)).

(5) If the landlord collects a deposit without providing a written checklist at the commencement of the tenancy, the landlord is liable to the tenant for the amount of the deposit, and the prevailing party may recover court costs and reasonable attorneys' fees. This section does not limit the tenant's right to recover moneys paid as damages or security under RCW 59.18.280.

Sec. 4. RCW 59.18.280 and 2022 c 196 s 3 are each amended to read as follows:

(1)(a) Within ((~~twenty-one~~)) 30 days after the termination of the rental agreement and vacation of the premises or, if the tenant abandons the premises as defined in RCW 59.18.310, within ((~~twenty-one~~)) 30 days after the landlord learns of the abandonment, the landlord shall give a full and specific statement of the basis for retaining any of the deposit, and any documentation required by (b) of this subsection, together with the payment of any refund due the tenant under the terms and conditions of the rental agreement.

(((~~(a) No portion of any deposit shall be withheld on account of wear resulting from ordinary use of the premises.~~

~~(b)~~)) The landlord complies with this ((~~section~~)) subsection if ((~~the required statement or payment, or both,~~)) these are delivered to the tenant personally or deposited in the United States mail properly addressed to the tenant's last known address with first-class postage prepaid within the ((~~twenty-one~~)) 30 days.

(b) With the statement required by (a) of this subsection, the landlord shall include copies of estimates received or invoices paid to reasonably substantiate damage charges. Where repairs are performed by the landlord or the landlord's employee, if a deduction is made for materials or supplies, the landlord shall provide a copy of the bill, invoice, or receipt. The landlord may document the cost of materials or supplies already in the landlord's possession or purchased on an ongoing basis by providing a copy of a bill, invoice, receipt, vendor price list, or other vendor document that reasonably documents the cost of the item used in the repair or cleaning of the unit. Where repairs are performed by the landlord or the landlord's employee, the landlord shall include a statement of the time spent performing repairs and the reasonable hourly rate charged.

(c) No portion of any deposit may be withheld:

(i) For wear resulting from ordinary use of the premises;

(ii) For carpet cleaning unless the landlord documents wear to the carpet that is beyond wear resulting from ordinary use of the premises;

(iii) For the costs of repair and replacement of fixtures, equipment, appliances, and furnishings if their condition was not reasonably documented in the written checklist required under RCW 59.18.260; or

(iv) In excess of the cost of repair or replacement of the damaged portion in situations in which the premises, including fixtures, equipment, appliances, and furnishings, are damaged in excess of wear resulting from ordinary use of the premises but the damage does not encompass the item's entirety.

(2) If the landlord fails to give ((~~such~~)) the statement and any documentation required by subsection (1) of this section together with any refund due the tenant

within the time limits specified ((~~above~~)) in subsection (1) of this section he or she shall be liable to the tenant for the full amount of the deposit. The landlord is also barred in any action brought by the tenant to recover the deposit from asserting any claim or raising any defense for retaining any of the deposit unless the landlord shows that circumstances beyond the landlord's control prevented the landlord from providing the statement and any documentation within the ((~~twenty-one~~)) 30 days or that the tenant abandoned the premises as defined in RCW 59.18.310. The court may in its discretion award up to two times the amount of the deposit for the intentional refusal of the landlord to give the statement, documentation, or refund due unless the landlord shows that circumstances beyond the landlord's control prevented the landlord from providing the statement and any such documentation within 30 days or that the tenant abandoned the premises as described in RCW 59.18.310. In any action brought by the tenant to recover the deposit, the prevailing party shall additionally be entitled to the cost of suit or arbitration including a reasonable attorneys' fee.

(3)(a) Nothing in this chapter shall preclude the landlord from proceeding against, and the landlord shall have the right to proceed against a tenant to recover sums exceeding the amount of the tenant's damage or security deposit for damage to the property for which the tenant is responsible together with reasonable attorneys' fees. However, if the landlord seeks reimbursement for damages from the landlord mitigation program pursuant to RCW 43.31.605(1)(d), the landlord is prohibited from retaining any portion of the tenant's damage or security deposit or proceeding against the tenant who terminates under RCW 59.18.575 to recover sums exceeding the amount of the tenant's damage or security deposit for damage to the property.

(b) Damages for wear resulting from ordinary use of the premises or not substantiated by documentation equivalent to that required in subsection (1) of this section may not be charged to the tenant, reported to any consumer reporting agency, tenant screening service, or prospective landlord, or submitted for collection by any third-party agency.

(c) For tenancies with rental agreements initiated on or after the effective date of this section, any lawsuit filed against a tenant to recover sums exceeding the amount of the deposit shall be commenced within three years of the termination of the rental agreement or the tenant's abandonment of the premises.

(4) The requirements with respect to checklists and documentation that are set forth in RCW 59.18.260 and this section do not apply to situations in which part or all of a security deposit is withheld by the landlord for reasons unrelated to damages to the premises, fixtures, equipment, appliances, and furnishings, such as for rent or other charges owing.

Sec. 5. RCW 59.18.060 and 2013 c 35 s 1 are each amended to read as follows:

The landlord will at all times during the tenancy keep the premises fit for human habitation, and shall in particular:

(1) Maintain the premises to substantially comply with any applicable code, statute, ordinance, or regulation governing their maintenance or operation, which the legislative body enacting the applicable code, statute, ordinance or regulation could enforce as to the premises rented if such condition endangers or impairs the health or safety of the tenant;

(2) Maintain the structural components including, but not limited to, the roofs, floors, walls, chimneys, fireplaces, foundations, and all other structural components, in reasonably good repair so as to be usable;

(3) Keep any shared or common areas reasonably clean, sanitary, and safe from defects increasing the hazards of fire or accident;

(4) Provide a reasonable program for the control of infestation by insects, rodents, and other pests at the initiation of the tenancy and, except in the case of a single-family residence, control infestation during tenancy except where such infestation is caused by the tenant;

(5) Except where the condition is attributable to ((~~normal~~)) wear ((~~and tear~~)) resulting from ordinary use of the premises, make repairs and arrangements necessary to put and keep the premises in as good condition as it by law or rental agreement should have been, at the commencement of the tenancy;

(6) Provide reasonably adequate locks and furnish keys to the tenant;

(7) Maintain and safeguard with reasonable care any master key or duplicate keys to the dwelling unit;

(8) Maintain all electrical, plumbing, heating, and other facilities and appliances supplied by him or her in reasonably good working order;

(9) Maintain the dwelling unit in reasonably weathertight condition;

(10) Except in the case of a single-family residence, provide and maintain appropriate receptacles in common areas for the removal of ashes, rubbish, and garbage, incidental to the occupancy and arrange for the reasonable and regular removal of such waste;

(11) Provide facilities adequate to supply heat and water and hot water as reasonably required by the tenant;

(12)(a) Provide a written notice to all tenants disclosing fire safety and protection information. The landlord or his or her authorized agent must provide a written notice to the tenant that the dwelling unit is equipped with a smoke detection device as required in RCW 43.44.110. The notice shall inform the tenant of the tenant's responsibility to maintain the smoke detection device in proper operating condition and of penalties for failure to comply with the provisions of RCW 43.44.110(3). The notice must be signed by the landlord or the landlord's authorized agent and tenant with copies provided to both parties. Further, except with respect to a single-family residence, the written notice must also disclose the following:

(i) Whether the smoke detection device is hard-wired or battery operated;

(ii) Whether the building has a fire sprinkler system;

(iii) Whether the building has a fire alarm system;

(iv) Whether the building has a smoking policy, and what that policy is;

(v) Whether the building has an emergency notification plan for the occupants and, if so, provide a copy to the occupants;

(vi) Whether the building has an emergency relocation plan for the occupants and, if so, provide a copy to the occupants; and

(vii) Whether the building has an emergency evacuation plan for the occupants and, if so, provide a copy to the occupants.

(b) The information required under this subsection may be provided to a tenant in a multifamily residential building either as a written notice or as a checklist that discloses whether the building has fire safety and protection

devices and systems. The checklist shall include a diagram showing the emergency evacuation routes for the occupants.

(c) The written notice or checklist must be provided to new tenants at the time the lease or rental agreement is signed;

(13) Provide tenants with information provided or approved by the department of health about the health hazards associated with exposure to indoor mold. Information may be provided in written format individually to each tenant, or may be posted in a visible, public location at the dwelling unit property. The information must detail how tenants can control mold growth in their dwelling units to minimize the health risks associated with indoor mold. Landlords may obtain the information from the department's website or, if requested by the landlord, the department must mail the information to the landlord in a printed format. When developing or changing the information, the department of health must include representatives of landlords in the development process. The information must be provided by the landlord to new tenants at the time the lease or rental agreement is signed;

(14) The landlord and his or her agents and employees are immune from civil liability for failure to comply with subsection (13) of this section except where the landlord and his or her agents and employees knowingly and intentionally do not comply with subsection (13) of this section; and

(15) Designate to the tenant the name and address of the person who is the landlord by a statement on the rental agreement or by a notice conspicuously posted on the premises. The tenant shall be notified immediately of any changes in writing, which must be either (a) delivered personally to the tenant or (b) mailed to the tenant and conspicuously posted on the premises. If the person designated in this section does not reside in the state where the premises are located, there shall also be designated a person who resides in the county who is authorized to act as an agent for the purposes of service of notices and process, and if no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered such agent. Regardless of such designation, any owner who resides outside the state and who violates a provision of this chapter is deemed to have submitted himself or herself to the jurisdiction of the courts of this state and personal service of any process may be made on the owner outside the state with the same force and effect as personal service within the state. Any summons or process served out-of-state must contain the same information and be served in the same manner as personal service of summons or process served within the state, except the summons or process must require the party to appear and answer within ((~~sixty~~)) 60 days after such personal service out of the state. In an action for a violation of this chapter that is filed under chapter 12.40 RCW, service of the notice of claim outside the state must contain the same information and be served in the same manner as required under chapter 12.40 RCW, except the date on which the party is required to appear must not be less than ((~~sixty~~)) 60 days from the date of service of the notice of claim.

No duty shall devolve upon the landlord to repair a defective condition under this section, nor shall any defense or remedy be available to the tenant under this chapter, where the defective condition complained of was caused by the conduct of such tenant, his or her family, invitee, or other person acting under his or her control, or where a tenant unreasonably fails to allow the

landlord access to the property for purposes of repair. When the duty imposed by subsection (1) of this section is incompatible with and greater than the duty imposed by any other provisions of this section, the landlord's duty shall be determined pursuant to subsection (1) of this section.

Sec. 6. RCW 59.18.130 and 2011 c 132 s 8 are each amended to read as follows:

Each tenant shall pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances, and regulations, and in addition shall:

(1) Keep that part of the premises which he or she occupies and uses as clean and sanitary as the conditions of the premises permit;

(2) Properly dispose from his or her dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant;

(3) Properly use and operate all electrical, gas, heating, plumbing and other fixtures and appliances supplied by the landlord;

(4) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the structure or dwelling, with the appurtenances thereto, including the facilities, equipment, furniture, furnishings, and appliances, or permit any member of his or her family, invitee, licensee, or any person acting under his or her control to do so. Violations may be prosecuted under chapter 9A.48 RCW if the destruction is intentional and malicious;

(5) Not permit a nuisance or common waste;

(6) Not engage in drug-related activity at the rental premises, or allow a subtenant, sublessee, resident, or anyone else to engage in drug-related activity at the rental premises with the knowledge or consent of the tenant. "Drug-related activity" means that activity which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW;

(7) Maintain the smoke detection device in accordance with the manufacturer's recommendations, including the replacement of batteries where required for the proper operation of the smoke detection device, as required in RCW 43.44.110(3);

(8) Not engage in any activity at the rental premises that is:

(a) Imminently hazardous to the physical safety of other persons on the premises; and

(b)(i) Entails physical assaults upon another person which result in an arrest; or

(ii) Entails the unlawful use of a firearm or other deadly weapon as defined in RCW 9A.04.110 which results in an arrest, including threatening another tenant or the landlord with a firearm or other deadly weapon under RCW 59.18.352. Nothing in this subsection (8) shall authorize the termination of tenancy and eviction of the victim of a physical assault or the victim of the use or threatened use of a firearm or other deadly weapon;

(9) Not engage in any gang-related activity at the premises, as defined in RCW 59.18.030, or allow another to engage in such activity at the premises, that renders people in at least two or more dwelling units or residences insecure in

life or the use of property or that injures or endangers the safety or health of people in at least two or more dwelling units or residences. In determining whether a tenant is engaged in gang-related activity, a court should consider the totality of the circumstances, including factors such as whether there have been a significant number of complaints to the landlord about the tenant's activities at the property, damages done by the tenant to the property, including the property of other tenants or neighbors, harassment or threats made by the tenant to other tenants or neighbors that have been reported to law enforcement agencies, any police incident reports involving the tenant, and the tenant's criminal history; and

(10) Upon termination and vacation, restore the premises to their initial condition except for ((~~reasonable~~)) wear ((~~and tear~~)) resulting from ordinary use of the premises or conditions caused by failure of the landlord to comply with his or her obligations under this chapter. The tenant shall not be charged for normal cleaning if he or she has paid a nonrefundable cleaning fee.

Sec. 7. RCW 59.18.595 and 2015 c 264 s 3 are each amended to read as follows:

(1) In the event of the death of a tenant who is the sole occupant of the dwelling unit:

(a) The landlord, upon learning of the death of the tenant, shall promptly mail or personally deliver written notice to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the address of the dwelling unit. If the landlord knows of any address used for the receipt of electronic communications, the landlord shall email the notice to that address as well. The notice must include:

(i) The name of the deceased tenant and address of the dwelling unit;

(ii) The approximate date of the deceased tenant's death;

(iii) The rental amount and date through which rent is paid;

(iv) A statement that the tenancy will terminate ((~~fifteen~~)) 15 days from the date the notice is mailed or personally delivered or the date through which rent is paid, whichever comes later, unless during that time period a tenant representative makes arrangements with the landlord to pay rent in advance for no more than ((~~sixty~~)) 60 days from the date of the tenant's death to allow a tenant representative to arrange for orderly removal of the tenant's property. At the end of the period for which the rent has been paid pursuant to this subsection, the tenancy ends;

(v) A statement that failure to remove the tenant's property before the tenancy is terminated or ends as provided in (a)(iv) of this subsection will allow the landlord to enter the dwelling unit and take possession of any property found on the premises, store it in a reasonably secure place, and charge the actual or reasonable costs, whichever is less, of drayage and storage of the property, and after service of a second notice sell or dispose of the property as provided in subsection (3) of this section; and

(vi) A copy of any designation executed by the tenant pursuant to RCW 59.18.590;

(b) The landlord shall turn over possession of the tenant's property to a tenant representative if a request is made in writing within the specified time period or any subsequent date agreed to by the parties;

(c) Within ((~~fourteen days~~)) the same number of days as required under RCW 59.18.280, after the removal of the property by the tenant representative, the landlord shall refund any unearned rent and shall give a full and specific statement of the basis for retaining any deposit together with the payment of any refund due the deceased tenant under the terms and conditions of the rental agreement to the tenant representative; and

(d) Any tenant representative who removes property from the tenant's dwelling unit or the premises must, at the time of removal, provide to the landlord an inventory of the removed property and signed acknowledgment that he or she has only been given possession and not ownership of the property.

(2) A landlord shall send a second written notice before selling or disposing of a deceased tenant's property.

(a) If the tenant representative makes arrangements with the landlord to pay rent in advance as provided in subsection (1)(a)(iv) of this section, the landlord shall mail a second written notice to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the dwelling unit. The second notice must include:

(i) The name, address, and phone number or other contact information for the tenant representative, if known, who made the arrangements to pay rent in advance;

(ii) The amount of rent paid in advance and date through which rent was paid; and

(iii) A statement that the landlord may sell or dispose of the property on or after the date through which rent is paid or at least ((~~forty-five~~)) 45 days after the second notice is mailed, whichever comes later, if a tenant representative does not claim and remove the property in accordance with this subsection.

(b) If the landlord places the property in storage pursuant to subsection (1)(a) of this section, the landlord shall mail a second written notice, unless a written notice under (a) of this subsection has already been provided, to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the dwelling unit. The second notice must state that the landlord may sell or dispose of the property on or after a specified date that is at least ((~~forty-five~~)) 45 days after the second notice is mailed if a tenant representative does not claim and remove the property in accordance with this subsection.

(c) The landlord shall turn over possession of the tenant's property to a tenant representative if a written request is made within the applicable time periods after the second notice is mailed, provided the tenant representative: (i) Pays the actual or reasonable costs, whichever is less, of drayage and storage of the property, if applicable; and (ii) gives the landlord an inventory of the property and signs an acknowledgment that he or she has only been given possession and not ownership of the property.

(d) Within ((~~fourteen days~~)) the same number of days as required under RCW 59.18.280, after the removal of the property by the tenant representative, the landlord shall refund any unearned rent and shall give a full and specific

statement of the basis for retaining any deposit together with the payment of any refund due the deceased tenant under the terms and conditions of the rental agreement to the tenant representative.

(3)(a) If a tenant representative has not contacted the landlord or removed the deceased tenant's property within the applicable time periods under this section, the landlord may sell or dispose of the deceased tenant's property, except for personal papers and personal photographs, as provided in this subsection.

(i) If the landlord reasonably estimates the fair market value of the stored property to be more than ((~~one thousand dollars~~)) $1,000, the landlord shall arrange to sell the property in a commercially reasonable manner and may dispose of any property that remains unsold in a reasonable manner.

(ii) If the value of the stored property does not meet the threshold provided in (a)(i) of this subsection, the landlord may dispose of the property in a reasonable manner.

(iii) The landlord may apply any income derived from the sale of the property pursuant to this section against any costs of sale and moneys due the landlord, including actual or reasonable costs, whichever is less, of drayage and storage of the deceased tenant's property. Any excess income derived from the sale of such property under this section must be held by the landlord for a period of one year from the date of sale, and if no claim is made for recovery of the excess income before the expiration of that one-year period, the balance must be treated as abandoned property and deposited by the landlord with the department of revenue pursuant to chapter ((~~63.29~~)) 63.30 RCW.

(b) Personal papers and personal photographs that are not claimed by a tenant representative within ((~~ninety~~)) 90 days after a sale or other disposition of the deceased tenant's other property shall be either destroyed or held for the benefit of any successor of the deceased tenant as defined in RCW 11.62.005.

(c) No landlord or employee of a landlord, or his or her family members, may acquire, directly or indirectly, the property sold pursuant to (a)(i) of this subsection or disposed of pursuant to (a)(ii) of this subsection.

(4) Upon learning of the death of the tenant, the landlord may enter the deceased tenant's dwelling unit and immediately dispose of any perishable food, hazardous materials, and garbage found on the premises and turn over animals to a tenant representative or to an animal control officer, humane society, or other individual or organization willing to care for the animals.

(5) Any notices sent by the landlord under this section must include a mailing address, any address used for the receipt of electronic communications, and a telephone number of the landlord.

(6) If a landlord knowingly violates this section, the landlord is liable to the deceased tenant's estate for actual damages. The prevailing party in any action pursuant to this subsection may recover costs and reasonable attorneys' fees.

(7) A landlord who complies with this section is relieved from any liability relating to the deceased tenant's property.

Passed by the House April 14, 2023.

Passed by the Senate April 10, 2023.

Approved by the Governor May 8, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 332

[Engrossed Second Substitute House Bill 1110]

GROWTH MANAGEMENT ACT—MINIMUM DEVELOPMENT DENSITIES IN RESIDENTIAL ZONES

AN ACT Relating to creating more homes for Washington by increasing middle housing in areas traditionally dedicated to single-family detached housing; amending RCW 36.70A.030, 36.70A.280, 43.21C.495, and 43.21C.450; adding new sections to chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that Washington is facing an unprecedented housing crisis for its current population and a lack of housing choices, and is not likely to meet the affordability goals for future populations. In order to meet the goal of 1,000,000 new homes by 2044, and enhanced quality of life and environmental protection, innovative housing policies will need to be adopted.

Increasing housing options that are more affordable to various income levels is critical to achieving the state's housing goals, including those codified by the legislature under chapter 254, Laws of 2021.

There is continued need for the development of housing at all income levels, including middle housing that will provide a wider variety of housing options and configurations to allow Washingtonians to live near where they work.

Homes developed at higher densities are more affordable by design for Washington residents both in their construction and reduced household energy and transportation costs.

While creating more housing options, it is essential for cities to identify areas at higher risk of displacement and establish antidisplacement policies as required in Engrossed Second Substitute House Bill No. 1220 (chapter 254, Laws of 2021).

The state has made historic investments in subsidized affordable housing through the housing trust fund, yet even with these historic investments, the magnitude of the housing shortage requires both public and private investment.

In addition to addressing the housing shortage, allowing more housing options in areas already served by urban infrastructure will reduce the pressure to develop natural and working lands, support key strategies for climate change, food security, and Puget Sound recovery, and save taxpayers and ratepayers money.

Sec. 2. RCW 36.70A.030 and 2021 c 254 s 6 are each amended to read as follows:

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

(1) "Administrative design review" means a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director's designee based solely on objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to

consider, recommend, or approve requests for variances from locally established design review standards.

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

((~~(2)~~)) (3) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, sixty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

((~~(3)~~)) (4) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

((~~(4)~~)) (5) "City" means any city or town, including a code city.

((~~(5)~~)) (6) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

((~~(6)~~)) (7) "Cottage housing" means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

(8) "Courtyard apartments" means up to four attached dwelling units arranged on two or three sides of a yard or court.

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

((~~(7)~~)) (10) "Department" means the department of commerce.

((~~(8)~~)) (11) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the

decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(((~~(9)~~))) (12) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(((~~(10)~~))) (13) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(((~~(11)~~))) (14) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(((~~(12)~~))) (15) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(((~~(13)~~))) (16) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(((~~(14)~~))) (17) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(((~~(15)~~))) (18) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(((~~(16)~~))) (19) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the

county where the household is located, as reported by the United States department of housing and urban development.

((~~(17)~~)) (20) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems; or

(d) Stops on bus rapid transit routes.

(21) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

(22) "Minerals" include gravel, sand, and valuable metallic substances.

((~~(18)~~)) (23) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

((~~(19)~~)) (24) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

((~~(20)~~)) (25) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

((~~(21)~~)) (26) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

((~~(22)~~)) (27) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

((~~(23)~~)) (28) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

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

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

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

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

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

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

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

(((~~(24)~~))) (29) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(((~~(25)~~))) (30) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems((~~,~~)) and fire and police protection services((~~, transportation and public transit services, and other public utilities~~)) associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(((~~(26)~~))) (31) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(((~~(27)~~))) (32) "Single-family zones" means those zones where single-family detached housing is the predominant land use.

(33) "Stacked flat" means dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

(34) "Townhouses" means buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

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

(((~~(28)~~))) (36) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided

in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(((~~(29)~~))) (37) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(((~~(30)~~))) (38) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(((~~(31)~~))) (39) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Except as provided in subsection (4) of this section, any city that is required or chooses to plan under RCW 36.70A.040 must provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the following:

(a) For cities with a population of at least 25,000 but less than 75,000 based on office of financial management population estimates:

(i) The development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least one unit is affordable housing.

(b) For cities with a population of at least 75,000 based on office of financial management population estimates:

(i) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or

intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least two units are affordable housing.

(c) For cities with a population of less than 25,000, that are within a contiguous urban growth area with the largest city in a county with a population of more than 275,000, based on office of financial management population estimates the development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies.

(2)(a) To qualify for the additional units allowed under subsection (1) of this section, the applicant must commit to renting or selling the required number of units as affordable housing. The units must be maintained as affordable for a term of at least 50 years, and the property must satisfy that commitment and all required affordability and income eligibility conditions adopted by the local government under this chapter. A city must require the applicant to record a covenant or deed restriction that ensures the continuing rental of units subject to these affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years. The covenant or deed restriction must also address criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanently affordable housing.

(b) The units dedicated as affordable must be provided in a range of sizes comparable to other units in the development. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units must generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

(c) If a city has enacted a program under RCW 36.70A.540, the terms of that program govern to the extent they vary from the requirements of this subsection.

(3) If a city has enacted a program under RCW 36.70A.540, subsection (1) of this section does not preclude the city from requiring any development, including development described in subsection (1) of this section, to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand such a program or modify its requirements.

(4)(a) As an alternative to the density requirements in subsection (1) of this section, a city may implement the density requirements in subsection (1) of this section for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units.

(b) The 25 percent of lots for which the requirements of subsection (1) of this section are not implemented must include but are not limited to:

(i) Any areas within the city for which the department has certified an extension of the implementation timelines under section 5 of this act due to the risk of displacement;

(ii) Any areas within the city for which the department has certified an extension of the implementation timelines under section 7 of this act due to a lack of infrastructure capacity;

(iii) Any lots designated with critical areas or their buffers that are exempt from the density requirements as provided in subsection (8) of this section;

(iv) Any portion of a city within a one-mile radius of a commercial airport with at least 9,000,000 annual enplanements that is exempt from the parking requirements under subsection (7)(b) of this section; and

(v) Any areas subject to sea level rise, increased flooding, susceptible to wildfires, or geological hazards over the next 100 years.

(c) Unless identified as at higher risk of displacement under RCW 36.70A.070(2)(g), the 25 percent of lots for which the requirements of subsection (1) of this section are not implemented may not include:

(i) Any areas for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect;

(ii) Any areas within one-half mile walking distance of a major transit stop; or

(iii) Any areas historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area, as known to the city at the time of each comprehensive plan update.

(5) A city must allow at least six of the nine types of middle housing to achieve the unit density required in subsection (1) of this section. A city may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section. Cities are not required to allow accessory dwelling units or middle housing types beyond the density requirements in subsection (1) of this section. A city must also allow zero lot line short subdivision where the number of lots created is equal to the unit density required in subsection (1) of this section.

(6) Any city subject to the requirements of this section:

(a) If applying design review for middle housing, only administrative design review shall be required;

(b) Except as provided in (a) of this subsection, shall not require through development regulations any standards for middle housing that are more restrictive than those required for detached single-family residences, but may apply any objective development regulations that are required for detached single-family residences, including, but not limited to, set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements to ensure compliance with existing ordinances intended to protect critical areas and public health and safety;

(c) Shall apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW;

(d) Shall not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop;

(e) Shall not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits;

(f) Shall not require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(g) Are not required to achieve the per unit density under this act on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes.

(7) The provisions of subsection (6)(d) through (f) of this section do not apply:

(a) If a local government submits to the department an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of subsection (6)(d) through (f) of this section for middle housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. The department must develop guidance to assist cities on items to include in the study; or

(b) To portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(8) The provisions of this section do not apply to:

(a) Lots designated with critical areas designated under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170;

(b) A watershed serving a reservoir for potable water if that watershed is or was listed, as of the effective date of this section, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)); or

(c) Lots that have been designated urban separators by countywide planning policies as of the effective date of this section.

(9) Nothing in this section prohibits a city from permitting detached single-family residences.

(10) Nothing in this section requires a city to issue a building permit if other federal, state, and local requirements for a building permit are not met.

(11) A city must comply with the requirements of this section on the latter of:

(a) Six months after its next periodic comprehensive plan update required under RCW 36.70A.130 if the city meets the population threshold based on the 2020 office of financial management population data; or

(b) 12 months after their next implementation progress report required under RCW 36.70A.130 after a determination by the office of financial management that the city has reached a population threshold established under this section.

(12) A city complying with this section and not granted a timeline extension under section 7 of this act does not have to update its capital facilities plan element required by RCW 36.70A.070(3) to accommodate the increased housing required by this act until the first periodic comprehensive plan update required for the city under RCW 36.70A.130(5) that occurs on or after June 30, 2034.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW to read as follows:

(1)(a) The department is directed to provide technical assistance to cities as they implement the requirements under section 3 of this act.

(b) The department shall prioritize such technical assistance to cities demonstrating the greatest need.

(2)(a) The department shall publish model middle housing ordinances no later than six months following the effective date of this section.

(b) In any city subject to section 3 of this act that has not passed ordinances, regulations, or other official controls within the time frames provided under section 3(11) of this act, the model ordinance supersedes, preempts, and invalidates local development regulations until the city takes all actions necessary to implement section 3 of this act.

(3)(a) The department is directed to establish a process by which cities implementing the requirements of section 3 of this act may seek approval of alternative local action necessary to meet the requirements of this act.

(b) The department may approve actions under this section for cities that have, by January 1, 2023, adopted a comprehensive plan that is substantially similar to the requirements of this act and have adopted, or within one year of the effective date of this section adopts, permanent development regulations that are substantially similar to the requirements of this act. In determining whether a city's adopted comprehensive plan and permanent development regulations are substantially similar, the department must find as substantially similar plans and regulations that:

(i) Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of this act were adopted;

(ii) Allow for middle housing throughout the city, rather than just in targeted locations; and

(iii) Allow for additional density near major transit stops, and for projects that incorporate dedicated affordable housing.

(c) The department may also approve actions under this section for cities that have, by January 1, 2023, adopted a comprehensive plan or development regulations that have significantly reduced or eliminated residentially zoned areas that are predominantly single family. The department must find that a city's actions are substantially similar to the requirements of this act if they have adopted, or within one year of the effective date of this section adopts, permanent development regulations that:

(i) Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of this act were adopted;

(ii) Allow for middle housing throughout the city, rather than just in targeted locations; and

(iii) Allow for additional density near major transit stops, and for projects that incorporate dedicated affordable housing.

(d) The department may determine that a comprehensive plan and development regulations that do not meet these criteria are otherwise substantially similar to the requirements of this act if the city can clearly demonstrate that the regulations adopted will allow for a greater increase in middle housing production within single family zones than would be allowed through implementation of section 3 of this act.

(e) Any local actions approved by the department pursuant to (a) of this subsection to implement the requirements under section 3 of this act are exempt from appeals under this chapter and chapter 43.21C RCW.

(f) The department's final decision to approve or reject actions by cities implementing section 3 of this act may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(4) The department may issue guidance for local jurisdictions to ensure that the levels of middle housing zoning under this act can be integrated with the methods used by cities to calculate zoning densities and intensities in local zoning and development regulations.

NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A RCW to read as follows:

Any city choosing the alternative density requirements in section 3(4) of this act may apply to the department for, and the department may certify, an extension for areas at risk of displacement as determined by the antidisplacement analysis that a jurisdiction is required to complete under RCW 36.70A.070(2). The city must create a plan for implementing antidisplacement policies by their next implementation progress report required by RCW 36.70A.130(9). The department may certify one further extension based on evidence of significant ongoing displacement risk in the impacted area.

Sec. 6. RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with RCW 36.70A.5801;

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; ((~~or~~))

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous; or

(f) That the department's final decision to approve or reject actions by a city implementing section 3 of this act is clearly erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of

filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Any city choosing the alternative density requirements in section 3(4) of this act may apply to the department for, and the department may certify, an extension of the implementation timelines established under section 3(11) of this act.

(2) An extension certified under this section may be applied only to specific areas where a city can demonstrate that water, sewer, stormwater, transportation infrastructure, including facilities and transit services, or fire protection services lack capacity to accommodate the density required in section 3 of this act, and the city has:

(a) Included one or more improvements, as needed, within its capital facilities plan to adequately increase capacity; or

(b) Identified which special district is responsible for providing the necessary infrastructure if the infrastructure is provided by a special purpose district.

(3) If an extension of the implementation timelines is requested due to lack of water supply from the city or the purveyors who serve water within the city, the department's evaluation of the extension must be based on the applicable water system plans in effect and approved by the department of health. Water system plan updates initiated after the effective date of this section must include consideration of water supply requirements for middle housing types.

(4) An extension granted under this section remains in effect until the earliest of:

(a) The infrastructure is improved to accommodate the capacity;

(b) The city's deadline to complete its next periodic comprehensive plan update under RCW 36.70A.130; or

(c) The city's deadline to complete its implementation progress report to the department as required under RCW 36.70A.130(9).

(5) A city that has received an extension under this section may reapply for any needed extension with its next periodic comprehensive plan update under RCW 36.70A.130 or its implementation progress report to the department under RCW 36.70A.130(9). The application for an additional extension must include a list of infrastructure improvements necessary to meet the capacity required in section 3 of this act. Such additional extension must only be to address infrastructure deficiency that a city is not reasonably able to address within the first extension.

(6) The department may establish by rule any standards or procedures necessary to implement this section.

(7) The department must provide the legislature with a list of projects identified in a city's capital facilities plan that were the basis for the extension under this section, including planning level estimates. Additionally, the city must contact special purpose districts to identify additional projects associated with extensions under this section.

(8) A city granted an extension for a specific area must allow development as provided under section 3 of this act if the developer commits to providing the necessary water, sewer, or stormwater infrastructure.

(9) If an area zoned predominantly for residential use is currently served only by private wells, group B water systems or group A water systems with less than 50 connections, or a city or water providers within the city do not have an adequate water supply or available connections to serve the zoning increase required under section 3 of this act, the city may limit the areas subject to the requirements under section 3 of this act to match current water availability. Nothing in this act affects or modifies the responsibilities of cities to plan for or provide urban governmental services as defined in RCW 36.70A.030 or affordable housing as required by RCW 36.70A.070.

(10) No city shall approve a building permit for housing under section 3 of this act without compliance with the adequate water supply requirements of RCW 19.27.097.

(11) If an area zoned predominantly for residential use is currently served only by on-site sewage systems, development may be limited to two units per lot, until either the landowner or local government provides sewer service or demonstrates a sewer system will serve the development at the time of construction. Nothing in this act affects or modifies the responsibilities of cities to plan for or provide urban governmental services as defined in RCW 36.70A.030.

Sec. 8. RCW 43.21C.495 and 2022 c 246 s 3 are each amended to read as follows:

(1) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city to implement: The actions specified in section 2, chapter 246, Laws of 2022 unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat; and the increased residential building capacity actions identified in RCW 36.70A.600(1), with the exception of the action specified in RCW

36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter.

(2) Amendments to development regulations and other nonproject actions taken by a city to implement the requirements under section 3 of this act pursuant to section 4(3)(b) of this act are not subject to administrative or judicial appeals under this chapter.

Sec. 9. RCW 43.21C.450 and 2012 1st sp.s. c 1 s 307 are each amended to read as follows:

The following nonproject actions are categorically exempt from the requirements of this chapter:

(1) Amendments to development regulations that are required to ensure consistency with an adopted comprehensive plan pursuant to RCW 36.70A.040, where the comprehensive plan was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(2) Amendments to development regulations that are required to ensure consistency with a shoreline master program approved pursuant to RCW 90.58.090, where the shoreline master program was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(3) Amendments to development regulations that, upon implementation of a project action, will provide increased environmental protection, limited to the following:

(a) Increased protections for critical areas, such as enhanced buffers or setbacks;

(b) Increased vegetation retention or decreased impervious surface areas in shoreline jurisdiction; and

(c) Increased vegetation retention or decreased impervious surface areas in critical areas;

(4) Amendments to technical codes adopted by a county, city, or town to ensure consistency with minimum standards contained in state law, including the following:

(a) Building codes required by chapter 19.27 RCW;

(b) Energy codes required by chapter 19.27A RCW; and

(c) Electrical codes required by chapter 19.28 RCW.

(5) Amendments to development regulations to remove requirements for parking from development proposed to fill in an urban growth area designated according to RCW 36.70A.110.

NEW SECTION. **Sec. 10.** A new section is added to chapter 64.34 RCW to read as follows:

A declaration created after the effective date of this section and applicable to an area within a city subject to the middle housing requirements in section 3 of this act may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 11.** A new section is added to chapter 64.32 RCW to read as follows:

A declaration created after the effective date of this section and applicable to an association of apartment owners located within an area of a city subject to the middle housing requirements in section 3 of this act may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38 RCW to read as follows:

Governing documents of associations within cities subject to the middle housing requirements in section 3 of this act that are created after the effective date of this section may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 13.** A new section is added to chapter 64.90 RCW to read as follows:

Declarations and governing documents of a common interest community within cities subject to the middle housing requirements in section 3 of this act that are created after the effective date of this section may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 14.** The department of commerce may establish by rule any standards or procedures necessary to implement sections 2 through 7 of this act.

NEW SECTION. **Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 333

[Engrossed Substitute House Bill 1293]
GROWTH MANAGEMENT ACT—DESIGN REVIEW

AN ACT Relating to streamlining development regulations; amending RCW 36.70B.160; and adding a new section to chapter 36.70A RCW.

Be it enacted by the Legislature of the State of Washington:

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

(1) For purposes of this section, "design review" means a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance.

(2) Except as provided in subsection (3) of this section, counties and cities planning under RCW 36.70A.040 may apply in any design review process only clear and objective development regulations governing the exterior design of new development. For purposes of this section, a clear and objective development regulation:

(a) Must include one or more ascertainable guideline, standard, or criterion by which an applicant can determine whether a given building design is permissible under that development regulation; and

(b) May not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations for a development proposal in the applicable zone.

(3) The provisions of subsection (2) of this section do not apply to development regulations that apply only to designated landmarks or historic districts established under a local preservation ordinance.

(4) Any design review process must be conducted concurrently, or otherwise logically integrated, with the consolidated review and decision process for project permits set forth in RCW 36.70B.120(3), and no design review process may include more than one public meeting.

(5) A county or city must comply with the requirements of this section beginning six months after its next periodic comprehensive plan update required under RCW 36.70A.130.

Sec. 2. RCW 36.70B.160 and 1995 c 347 s 420 are each amended to read as follows:

(1) Each local government is encouraged to adopt further project review provisions to provide prompt, coordinated, and objective review and ensure accountability to applicants and the public, including expedited review for project permit applications for projects that are consistent with adopted development regulations or that include dwelling units that are affordable to low-income or moderate-income households and within the capacity of systemwide infrastructure improvements.

(2) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution, where otherwise required by applicable state law.

(3) Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.

(4) Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.

(5) For the purposes of this section:

(a) A dwelling unit is affordable if it requires payment of monthly housing costs, including utilities other than telephone, of no more than 30 percent of the family's income.

(b) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation, and that is sold or rented separately from other dwelling units.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than 80 percent of the median family income, adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development, or less than 80 percent of the city's median income if the project is located in the city, the city has median income of more than 20 percent above the county median income, and the city has adopted an alternative local median income.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income, adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development, or less than 120 percent of the city's median income if the project is located in the city, the city has median income of more than 20 percent above the county median income, and the city has adopted an alternative local median income.

Passed by the House April 14, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 334

[Engrossed House Bill 1337]

GROWTH MANAGEMENT ACT—ACCESSORY DWELLING UNITS—URBAN GROWTH AREAS

AN ACT Relating to expanding housing options by easing barriers to the construction and use of accessory dwelling units; amending RCW 36.70A.696, 43.21C.495, and 36.70A.280; adding new sections to chapter 36.70A RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; creating a new section; and repealing RCW 35.63.210, 35A.63.230, 36.70A.400, 36.70.677, and 43.63A.215.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis. Many communities across the state are in need of more housing for renters across the income spectrum.

(b) Many cities dedicate the majority of residentially zoned land to single detached houses that are increasingly financially out of reach for many households. Due to their smaller size, accessory dwelling units can provide a more affordable housing option in those single-family zones.

(c) Localities can start to correct for historic economic and racial exclusion in single-family zones by opening up these neighborhoods to more diverse housing types, including accessory dwelling units, that provide lower cost homes. Increasing housing options in expensive, high-opportunity neighborhoods will give more families access to schools, parks, and other public amenities otherwise accessible to only the wealthy.

(d) Accessory dwelling units are frequently rented below market rate, providing additional affordable housing options for renters.

(e) Accessory dwelling units can also help to provide housing for very low-income households. More than 10 percent of accessory dwelling units in some areas are occupied by tenants who pay no rent at all; among these tenants are grandparents, adult children, family members with disabilities, friends going through life transitions, and community members in need. Accessory dwelling units meet the needs of these people who might otherwise require subsidized housing space and resources.

(f) Accessory dwelling units can meet the needs of Washington's growing senior population, making it possible for this population to age in their communities by offering senior-friendly housing, which prioritizes physical accessibility, in walkable communities near amenities essential to successful aging in place, including transit and grocery stores, without requiring costly renovations of existing housing stock.

(g) Homeowners who add an accessory dwelling unit may benefit from added income and an increased sense of security.

(h) Accessory dwelling units provide environmental benefits. On average they are more energy efficient than single detached houses, and they incentivize adaptive reuse of existing homes and materials.

(i) Siting accessory dwelling units near transit hubs, employment centers, and public amenities can help to reduce greenhouse gas emissions by increasing walkability, shortening household commutes, and curtailing sprawl.

(2) The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options.

Sec. 2. RCW 36.70A.696 and 2021 c 306 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 36.70A.697 ((~~and~~)), 36.70A.698, and sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(3) "City" means any city, code city, and town located in a county planning under RCW 36.70A.040.

(4) "County" means any county planning under RCW 36.70A.040.

(5) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit, duplex, triplex, townhome, or other housing unit and is on the same property.

(6) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(7) "Gross floor area" means the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

(8) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing actual fixed route service at intervals of at least fifteen minutes for at least five hours during the peak hours of operation on weekdays.

(((~~(8)~~))) (9) "Owner" means any person who has at least 50 percent ownership in a property on which an accessory dwelling unit is located.

(((~~(9)~~))) (10) "Principal unit" means the single-family housing unit, duplex, triplex, townhome, or other housing unit located on the same lot as an accessory dwelling unit.

(11) "Short-term rental" means a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, is offered or provided to a guest by a short-term rental operator for a fee for fewer than 30 consecutive nights.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW to read as follows:

(1)(a) Cities and counties planning under this chapter must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of this section and of section 4 of this act, to take effect six months after the jurisdiction's next periodic comprehensive plan update required under RCW 36.70A.130.

(b) In any city or county that has not adopted or amended ordinances, regulations, or other official controls as required under this section, the requirements of this section and section 4 of this act supersede, preempt, and invalidate any conflicting local development regulations.

(2) Ordinances, development regulations, and other official controls adopted or amended pursuant to this section and section 4 of this act must only apply in the portions of towns, cities, and counties that are within urban growth areas designated under this chapter.

(3) Any action taken by a city or county to comply with the requirements of this section or section 4 of this act is not subject to legal challenge under this chapter or chapter 43.21C RCW.

(4) Nothing in this section or section 4 of this act requires or authorizes a city or county to authorize the construction of an accessory dwelling unit in a location where development is restricted under other laws, rules, or ordinances as a result of physical proximity to on-site sewage system infrastructure, critical areas, or other unsuitable physical characteristics of a property.

(5) Nothing in this section or in section 4 of this act prohibits a city or county from:

(a) Restricting the use of accessory dwelling units for short-term rentals;

(b) Applying public health, safety, building code, and environmental permitting requirements to an accessory dwelling unit that would be applicable to the principal unit, including regulations to protect ground and surface waters from on-site wastewater;

(c) Applying generally applicable development regulations to the construction of an accessory unit, except when the application of such regulations would be contrary to this section or to section 4 of this act;

(d) Prohibiting the construction of accessory dwelling units on lots that are not connected to or served by public sewers; or

(e) Prohibiting or restricting the construction of accessory dwelling units in residential zones with a density of one dwelling unit per acre or less that are

within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW to read as follows:

(1) In addition to ordinances, development regulations, and other official controls adopted or amended to comply with this section and section 3 of this act, a city or county must comply with all of the following policies:

(a) The city or county may not assess impact fees on the construction of accessory dwelling units that are greater than 50 percent of the impact fees that would be imposed on the principal unit;

(b) The city or county may not require the owner of a lot on which there is an accessory dwelling unit to reside in or occupy the accessory dwelling unit or another housing unit on the same lot;

(c) The city or county must allow at least two accessory dwelling units on all lots that are located in all zoning districts within an urban growth area that allow for single-family homes in the following configurations:

(i) One attached accessory dwelling unit and one detached accessory dwelling unit;

(ii) Two attached accessory dwelling units; or

(iii) Two detached accessory dwelling units, which may be comprised of either one or two detached structures;

(d) The city or county must permit accessory dwelling units in structures detached from the principal unit;

(e) The city or county must allow an accessory dwelling unit on any lot that meets the minimum lot size required for the principal unit;

(f) The city or county may not establish a maximum gross floor area requirement for accessory dwelling units that is less than 1,000 square feet;

(g) The city or county may not establish roof height limits on an accessory dwelling unit of less than 24 feet, unless the height limitation that applies to the principal unit is less than 24 feet, in which case a city or county may not impose roof height limitation on accessory dwelling units that is less than the height limitation that applies to the principal unit;

(h) A city or county may not impose setback requirements, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review for accessory dwelling units that are more restrictive than those for principal units;

(i) A city or county must allow detached accessory dwelling units to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley;

(j) A city or county must allow accessory dwelling units to be converted from existing structures, including but not limited to detached garages, even if they violate current code requirements for setbacks or lot coverage;

(k) A city or county may not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an accessory dwelling unit; and

(l) A city or county may not require public street improvements as a condition of permitting accessory dwelling units.

(2)(a) A city or county subject to the requirements of this section may not:

(i) Require off-street parking as a condition of permitting development of accessory dwelling units within one-half mile walking distance of a major transit stop;

(ii) Require more than one off-street parking space per unit as a condition of permitting development of accessory dwelling units on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(iii) Require more than two off-street parking spaces per unit as a condition of permitting development of accessory dwelling units on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

(b) The provisions of (a) of this subsection do not apply:

(i) If a local government submits to the department an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of (a) of this subsection for accessory dwelling units will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. The department must develop guidance to assist cities and counties on items to include in the study; or

(ii) To portions of cities within a one mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(3) When regulating accessory dwelling units, cities and counties may impose a limit of two accessory dwelling units, in addition to the principal unit, on a residential lot of 2,000 square feet or less.

(4) The provisions of this section do not apply to lots designated with critical areas or their buffers as designated in RCW 36.70A.060, or to a watershed serving a reservoir for potable water if that watershed is or was listed, as of the effective date of this section, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)).

***NEW SECTION.** Sec. 5. A new section is added to chapter 36.70A RCW to read as follows:*

To encourage the use of accessory dwelling units for long-term housing, cities and counties may adopt ordinances, development regulations, and other official controls which waive or defer fees, including impact fees, defer the payment of taxes, or waive specific regulations. Cities and counties may only offer such reduced or deferred fees, deferred taxes, waivers, or other incentives for the development or construction of accessory dwelling units if:

(1) The units are located within an urban growth area; and

(2) The units are subject to a program adopted by the city or county with effective binding commitments or covenants that the units will be primarily utilized for long-term housing consistent with the public purpose for this authorization.

***Sec. 5 was vetoed. See message at end of chapter.**

Sec. 6. RCW 43.21C.495 and 2022 c 246 s 3 are each amended to read as follows:

(1) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city to implement: The actions specified in section 2, chapter 246, Laws of 2022 unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish

habitat; and the increased residential building capacity actions identified in RCW 36.70A.600(1), with the exception of the action specified in RCW 36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter.

(2) Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city or county consistent with the requirements of sections 3 and 4 of this act are not subject to administrative or judicial appeals under this chapter.

Sec. 7. RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance ((~~with RCW 36.70A.5801~~)) based on a city or county's actions taken to implement the requirements of sections 3 and 4 of this act within an urban growth area;

(b) That the ((~~twenty-~~)) 20-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; or

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within ((~~sixty~~)) 60 days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A RCW to read as follows:

(1) By December 31, 2023, the department must revise its recommendations for encouraging accessory dwelling units to include the provisions of sections 3 and 4 of this act.

(2) During each comprehensive plan review required by RCW 36.70A.130, the department must review local government comprehensive plans and development regulations for compliance with sections 3 and 4 of this act and the department's recommendations under subsection (1) of this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 64.34 RCW to read as follows:

(1) Except a declaration created to protect public health and safety, and ground and surface waters from on-site wastewater, a declaration created after the effective date of this section and applicable to a property located within an urban growth area may not impose any restriction or prohibition on the construction, development, or use on a lot of an accessory dwelling unit that the city or county in which the urban growth area is located would be prohibited from imposing under section 4 of this act.

(2) For the purposes of this section, "urban growth area" has the same meaning as in RCW 36.70A.030.

(3) A city or county issuing a permit for the construction of an accessory dwelling unit may not be held civilly liable on the basis that the construction of the accessory dwelling unit would violate a restrictive covenant or deed restriction.

NEW SECTION. **Sec. 10.** A new section is added to chapter 64.32 RCW to read as follows:

(1) Except a declaration created to protect public health and safety, and ground and surface waters from on-site wastewater, a declaration created after the effective date of this section and applicable to a property located within an urban growth area may not impose any restriction or prohibition on the construction, development, or use on a lot of an accessory dwelling unit that the city or county in which the urban growth area is located would be prohibited from imposing under section 4 of this act.

(2) For the purposes of this section, "urban growth area" has the same meaning as in RCW 36.70A.030.

(3) A city or county issuing a permit for the construction of an accessory dwelling unit may not be held civilly liable on the basis that the construction of the accessory dwelling unit would violate a restrictive covenant or deed restriction.

NEW SECTION. **Sec. 11.** A new section is added to chapter 64.38 RCW to read as follows:

(1) Except governing documents of associations created to protect public health and safety, and ground and surface waters from on-site wastewater, governing documents of associations created after the effective date of this section and applicable to a property located within an urban growth area may not impose any restriction or prohibition on the construction, development, or use on a lot of an accessory dwelling unit that the city or county in which the urban growth area is located would be prohibited from imposing under section 4 of this act.

(2) For the purposes of this section, "urban growth area" has the same meaning as in RCW 36.70A.030.

(3) A city or county issuing a permit for the construction of an accessory dwelling unit may not be held civilly liable on the basis that the construction of the accessory dwelling unit would violate a restrictive covenant or deed restriction.

NEW SECTION. **Sec. 12.** A new section is added to chapter 64.90 RCW to read as follows:

(1) Except declarations and governing documents of common interest communities created to protect public health and safety, and ground and surface waters from on-site wastewater, declarations and governing documents of common interest communities created after the effective date of this section and applicable to a property located within an urban growth area may not impose any restriction or prohibition on the construction, development, or use on a lot of an accessory dwelling unit that the city or county in which the urban growth area is located would be prohibited from imposing under section 4 of this act.

(2) For the purposes of this section, "urban growth area" has the same meaning as in RCW 36.70A.030.

(3) A city or county issuing a permit for the construction of an accessory dwelling unit may not be held civilly liable on the basis that the construction of the accessory dwelling unit would violate a restrictive covenant or deed restriction.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

(1) RCW 35.63.210 (Accessory apartments) and 1993 c 478 s 8;

(2) RCW 35A.63.230 (Accessory apartments) and 1993 c 478 s 9;

(3) RCW 36.70A.400 (Accessory apartments) and 1993 c 478 s 11;

(4) RCW 36.70.677 (Accessory apartments) and 1993 c 478 s 10; and

(5) RCW 43.63A.215 (Accessory apartments—Development and placement—Local governments) and 1993 c 478 s 7.

Passed by the House April 14, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor May 8, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 5, Engrossed House Bill No. 1337 entitled:

"AN ACT Relating to expanding housing options by easing barriers to the construction and use of accessory dwelling units."

Section 5 of the bill gives local governments authority to waive or defer fees, defer payment of taxes, or waive other regulations for the development of accessory dwelling units (ADUs) if specified conditions are met. The specified conditions are that the ADU must be located within an urban growth area, and the ADU must be subject to a locally adopted covenant program ensuring that the ADU will be primarily utilized for long-term housing. Current law allows local governments to waive fees, taxes, and to establish various incentives for the construction of ADUs without requiring the creation of a local covenant program. The administrative costs necessary to administer a new covenant program for ADUs may cause some cities to discontinue current incentive programs.

For these reasons I have vetoed Section 5 of Engrossed House Bill No. 1337.

With the exception of Section 5, Engrossed House Bill No. 1337 is approved."

CHAPTER 335

[Engrossed Second Substitute Senate Bill 5045]

PROPERTY TAXES—ACCESSORY DWELLING UNITS—LOW-INCOME HOUSEHOLDS

AN ACT Relating to incentivizing rental of accessory dwelling units to low-income households; amending RCW 84.36.400; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.36.400 and 2020 c 204 s 1 are each amended to read as follows:

(1) Any physical improvement to single-family dwellings upon real property, including constructing an accessory dwelling unit, whether attached to or within the single-family dwelling or as a detached unit on the same real property, shall be exempt from taxation for the three assessment years subsequent to the completion of the improvement to the extent that the improvement represents ((~~thirty~~)) 30 percent or less of the value of the original structure. A taxpayer desiring to obtain the exemption granted by this section must file notice of his or her intention to construct the improvement prior to the improvement being made on forms prescribed by the department of revenue and furnished to the taxpayer by the county assessor((~~: PROVIDED, That this~~)). The exemption in this subsection cannot be claimed more than once in a five-year period.

The department of revenue shall promulgate such rules and regulations as are necessary and convenient to properly administer the provisions of this ((~~section~~)) subsection (1).

(2)(a) A county legislative authority for a county with a population of 1,500,000 or more may exempt from taxation the value of an accessory dwelling unit if the following conditions are met:

(i) The improvement represents 30 percent or less of the value of the original structure;

(ii) The taxpayer demonstrates that the unit is maintained as a rental property for low-income households. For the purposes of this subsection, "low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 60 percent of the median household income adjusted for household size, for the county where the

household is located, as reported by the United States department of housing and urban development;

(iii) The taxpayer files notice of the taxpayer's intention to participate in the exemption program on forms prescribed by and furnished to the taxpayer by the county assessor;

(iv) Rent charged to a tenant does not exceed more than 30 percent of the tenant's monthly income; and

(v) The accessory dwelling unit is not occupied by an immediate family member of the taxpayer. For purposes of this subsection (2)(a), "immediate family" means any person under age sixty that is a state registered domestic partner, spouse, parents, grandparents, children, including foster children, siblings, and in-laws.

(b) An exemption granted under this subsection (2) may continue for as long as the exempted accessory dwelling unit is leased to a low-income household.

(c) A county legislative authority that has opted to exempt accessory dwelling units under this subsection (2) may:

(i) Allow the exemption for dwelling units that are attached to or within a single-family dwelling or are detached units on the same real property, or both;

(ii) Collect a fee from the taxpayer to cover the costs of administering this subsection (2);

(iii) Designate administrative officials or agents that will verify that both the low-income household and the taxpayer are in compliance with the requirements of this subsection (2). The designated official or agent may not be the county assessor but may include housing authorities or other qualified organizations as determined by the county legislative authority; and

(iv) Determine what property tax and penalties will be due, if any, in the case of a finding of noncompliance by a taxpayer.

(d) A county legislative authority that has opted to exempt accessory dwelling units under this subsection (2) shall establish policies to assist and support tenants upon expiration of an exemption granted under this subsection.

NEW SECTION. **Sec. 2.** (1) This section is the tax preference performance statement for the tax preference contained in section 1, chapter . . ., Laws of 2023 (section 1 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 to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as:

(a) One intended to induce certain designated behavior by taxpayers as indicated in RCW 82.32.808(2)(a); and

(b) A general purpose not identified in RCW 82.32.808(2) (a) through (e) as indicated in RCW 82.32.808(2)(f) and further described in subsection (3) of this section.

(3) It is the legislature's specific public policy objective to encourage homeowners to rent accessory dwelling units to low-income households and increase the overall availability of affordable housing.

(4)(a) The joint legislative audit and review committee must review the tax preference under section 1, chapter . . ., Laws of 2023 (section 1 of this act) as it applies specifically to the property tax exemption for accessory dwelling units

and complete a final report by December 1, 2029. The review must include, at a minimum, the following components:

(i) Costs and benefits associated with exempting from taxation the value of an accessory dwelling unit. This component of the analysis must, at a minimum, assess the costs and benefits of changes in the following metrics since the start of the program:

(A) The number of taxpayers filing notice to participate in the exemption program;

(B) The number of units exempt from property tax under the program, including the extent to which those units are attached or within a single-family dwelling or are detached units; and

(C) A summary of any fees or costs to administer the program;

(ii) An evaluation of the information calculated and provided by the department under RCW 36.70A.070(2)(a);

(iii) A summary of the estimated total statewide costs and benefits attributable to exempting from taxation the value of an accessory dwelling unit, including administrative costs and costs to monitor compliance; and

(iv) An evaluation of the impacts of the program on low-income households.

(b) If the review finds that a county with a population greater than 1,500,000 offers this exemption and the exemption increases the amount of accessory dwelling units rented to low-income households, then the legislature intends to extend the expiration date of this tax preference.

(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 any data collected by the state.

NEW SECTION. **Sec. 3.** This act expires January 1, 2034.

NEW SECTION. **Sec. 4.** This act applies to taxes levied for collection in 2024 and thereafter.

Passed by the Senate April 13, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 336

[Engrossed Substitute Senate Bill 5197]

RESIDENTIAL LANDLORD-TENANT ACT—FORCIBLE AND UNLAWFUL DETAINER PROCEEDINGS

AN ACT Relating to addressing landlord-tenant relations by providing technical changes to eviction notice forms and modifying certain eviction processes; amending RCW 59.18.410 and 59.18.057; and adding a new section to chapter 59.18 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18 RCW to read as follows:

In any forcible or unlawful detainer proceeding before the court:

(1) Hearings may be conducted in person or remotely in order to enhance access for all parties. At the court's discretion, parties, witnesses, and others

authorized by this chapter to participate in forcible or unlawful detainer proceedings may attend a hearing pursuant to this chapter, in person or remotely, including by telephone, video, or other electronic means where possible. The court shall grant any request for a remote appearance unless the court finds good cause to require in-person attendance or attendance through a specific means. Courts shall require assurances of the identity of persons who appear by telephone, video, or other electronic means. Courts may not charge fees for remote appearances. Courts shall provide instructions for remote access either on the official court website or in writing directly to the party requesting to appear remotely, or both.

(2) Any party must be permitted to make an emergency application by phone or video conference and file such documents by email, fax, or other means that can be performed remotely.

Sec. 2. RCW 59.18.410 and 2021 c 115 s 17 are each amended to read as follows:

(1) If at trial the verdict of the jury or, if the case is tried without a jury, the finding of the court is in favor of the landlord and against the tenant, judgment shall be entered for the restitution of the premises; and if the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement, or tenancy. The jury, or the court, if the proceedings are tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved at trial, and, if the alleged unlawful detainer is based on default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed, for the rent, if any, found due, and late fees if such fees are due under the lease and do not exceed ((~~seventy-five dollars~~)) $75 in total. The court may award statutory costs. The court may also award reasonable attorneys' fees as provided in RCW 59.18.290.

(2) When the tenant is liable for unlawful detainer after a default in the payment of rent, execution upon the judgment shall not occur until the expiration of five court days after the entry of the judgment. Before entry of a judgment or until five court days have expired after entry of the judgment, unless the tenant provides a pledge of financial assistance letter from a government or nonprofit entity, in which case the tenant has until the date of eviction, the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court or to the landlord the amount of the rent due, any court costs incurred at the time of payment, late fees if such fees are due under the lease and do not exceed ((~~seventy-five dollars~~)) $75 in total, and attorneys' fees if awarded, in which event any judgment entered shall be satisfied and the tenant restored to his or her tenancy. If the tenant seeks to restore his or her tenancy after entry of a judgment, the tenant may tender the amount stated within the judgment as long as that amount does not exceed the amount authorized under subsection (1) of this section. If a tenant seeks to restore his or her tenancy and pay the amount set forth in this subsection with funds acquired through an emergency rental assistance program provided by a

governmental or nonprofit entity, the tenant shall provide a copy of the pledge of emergency rental assistance provided from the appropriate governmental or nonprofit entity and have an opportunity to exercise such rights under this subsection, which may include a stay of judgment and provision by the landlord of documentation necessary for processing the assistance. The landlord shall accept any pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity before the expiration of any pay or vacate notice for nonpayment of rent for the full amount of the rent owing under the rental agreement. The landlord shall accept any written pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity after the expiration of the pay or vacate notice if the pledge will contribute to the total payment of both the amount of rent due, including any current rent, and other amounts if required under this subsection. The landlord shall suspend any court action for ((~~seven~~)) 14 court days after providing necessary payment information to the nonprofit or governmental entity to allow for payment of the emergency rental assistance funds. By accepting such pledge of emergency rental assistance, the landlord is not required to enter into any additional conditions not related to the provision of necessary payment information and documentation. If a judgment has been satisfied, the landlord shall file a satisfaction of judgment with the court. A tenant seeking to exercise rights under this subsection shall pay an additional ((~~fifty dollars~~)) $50 for each time the tenant was reinstated after judgment pursuant to this subsection within the previous ((~~twelve~~)) 12 months prior to payment. If payment of the amount specified in this subsection is not made within five court days after the entry of the judgment, the judgment may be enforced for its full amount and for the possession of the premises.

(3)(a) Following the entry of a judgment in favor of the landlord and against the tenant for the restitution of the premises and forfeiture of the tenancy due to nonpayment of rent, the court, at the time of the show cause hearing or trial, or upon subsequent motion of the tenant but before the execution of the writ of restitution, may stay the writ of restitution upon good cause and on such terms that the court deems fair and just for both parties. In making this decision, the court shall consider evidence of the following factors:

(i) The tenant's willful or intentional default or intentional failure to pay rent;

(ii) Whether nonpayment of the rent was caused by exigent circumstances that were beyond the tenant's control and that are not likely to recur;

(iii) The tenant's ability to timely pay the judgment;

(iv) The tenant's payment history;

(v) Whether the tenant is otherwise in substantial compliance with the rental agreement;

(vi) Hardship on the tenant if evicted; and

(vii) Conduct related to other notices served within the last six months.

(b) The burden of proof for such relief under this subsection (3) shall be on the tenant. If the tenant seeks relief pursuant to this subsection (3) at the time of the show cause hearing, the court shall hear the matter at the time of the show cause hearing or as expeditiously as possible so as to avoid unnecessary delay or hardship on the parties.

(c) In any order issued pursuant to this subsection (3):

(i) The court shall not stay the writ of restitution more than ((~~ninety~~)) 90 days from the date of order, but may order repayment of the judgment balance within such time. If the payment plan is to exceed ((~~thirty~~)) 30 days, the total cumulative payments for each ((~~thirty-day~~)) 30-day period following the order shall be no less than one month of the tenant's share of the rent, and the total amount of the judgment and all additional rent that is due shall be paid within ((~~ninety~~)) 90 days.

(ii) Within any payment plan ordered by the court, the court shall require the tenant to pay to the landlord or to the court one month's rent within five court days of issuance of the order. If the date of the order is on or before the ((~~fifteenth~~)) 15th of the month, the tenant shall remain current with ongoing rental payments as they become due for the duration of the payment plan; if the date of the order is after the ((~~fifteenth~~)) 15th of the month, the tenant shall have the option to apportion the following month's rental payment within the payment plan, but monthly rental payments thereafter shall be paid according to the rental agreement.

(iii) The sheriff may serve the writ of restitution upon the tenant before the expiration of the five court days of issuance of the order; however, the sheriff shall not execute the writ of restitution until after expiration of the five court days in order for payment to be made of one month's rent as required by (c)(ii) of this subsection. In the event payment is made as provided in (c)(ii) of this subsection for one month's rent, the court shall stay the writ of restitution ex parte without prior notice to the landlord upon the tenant filing and presenting a motion to stay with a declaration of proof of payment demonstrating full compliance with the required payment of one month's rent. Any order staying the writ of restitution under this subsection (3)(c)(iii) shall require the tenant to serve a copy of the order on the landlord by personal delivery, first-class mail, facsimile, or email if agreed to by the parties.

(A) If the tenant has satisfied (c)(ii) of this subsection by paying one month's rent within five court days, but defaults on a subsequent payment required by the court pursuant to this subsection (3)(c), the landlord may enforce the writ of restitution after serving a notice of default in accordance with RCW 59.12.040 informing the tenant that he or she has defaulted on rent due under the lease agreement or payment plan entered by the court. Upon service of the notice of default, the tenant shall have three calendar days from the date of service to vacate the premises before the sheriff may execute the writ of restitution.

(B) If the landlord serves the notice of default described under this subsection (3)(c)(iii), an additional day is not included in calculating the time before the sheriff may execute the writ of restitution. The notice of default must be in substantially the following form:

NOTICE OF DEFAULT FOR RENT AND/OR PAYMENT PLAN ORDERED BY COURT

NAME(S)
ADDRESS
CITY, STATE, ZIP

THIS IS NOTICE THAT YOU ARE IN DEFAULT OF YOUR RENT AND/OR PAYMENT PLAN ORDERED BY THE COURT. YOUR LANDLORD HAS RECEIVED THE FOLLOWING PAYMENTS:

DATE
AMOUNT
DATE
AMOUNT
DATE
AMOUNT

THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION WITHIN THREE CALENDAR DAYS OF SERVICE OF THIS NOTICE. TO STOP A PHYSICAL EVICTION, YOU ARE REQUIRED TO PAY THE BALANCE OF YOUR RENT AND/OR PAYMENT PLAN IN THE AMOUNT OF $. . . . ..

PAYMENT MAY BE MADE TO THE COURT OR TO THE LANDLORD. IF YOU FAIL TO PAY THE BALANCE WITHIN THREE CALENDAR DAYS, THE LANDLORD MAY PROCEED WITH A PHYSICAL EVICTION FOR POSSESSION OF THE UNIT THAT YOU ARE RENTING.

DATE
SIGNATURE
LANDLORD/AGENT
NAME
ADDRESS
PHONE

(iv) If a tenant seeks to satisfy a condition of this subsection (3)(c) by relying on an emergency rental assistance program provided by a government or nonprofit entity and provides an offer of proof, the court shall stay the writ of restitution as necessary to afford the tenant an equal opportunity to comply.

(v) The court shall extend the writ of restitution as necessary to enforce the order issued pursuant to this subsection (3)(c) in the event of default.

(d) A tenant who has been served with three or more notices to pay or vacate for failure to pay rent as set forth in RCW 59.12.040 within twelve months prior to the notice to pay or vacate upon which the proceeding is based may not seek relief under this subsection (3), unless the court determines any of the notices served were invalid or did not otherwise comply with the requirements of this chapter.

(e)(i) In any application seeking relief pursuant to this subsection (3) by either the tenant or landlord, the court shall issue a finding as to whether the tenant is low-income, limited resourced, or experiencing hardship to determine if the parties would be eligible for disbursement through the landlord mitigation program account established within RCW 43.31.605(1)(((~~(c)~~))) (b). In making this finding, the court may include an inquiry regarding the tenant's income relative to area median income, household composition, any extenuating circumstances, or other factors, and may rely on written declarations or oral testimony by the parties at the hearing.

(ii) After a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order: (A) Finding that the landlord is eligible to receive on behalf of the tenant and may apply for reimbursement from the landlord mitigation program; and (B) directing the clerk to remit, without further order of the court, any future payments made by the tenant in order to reimburse the department of commerce pursuant to RCW 43.31.605(1)((~~(c)~~)) (b)(iii). In accordance with RCW 43.31.605(1)((~~(c)~~)) (b), such an order must be accompanied by a copy of the order staying the writ of restitution. Nothing in this subsection (3)(e) shall be deemed to obligate the department of commerce to provide assistance in claim reimbursement through the landlord mitigation program if there are not sufficient funds.

(iii) If the department of commerce fails to disburse payment to the landlord for the judgment pursuant to this subsection (3)(e) within ((~~thirty~~)) 30 days from submission of the application, the landlord may renew an application for a writ of restitution pursuant to RCW 59.18.370 and for other rent owed by the tenant since the time of entry of the prior judgment. In such event, the tenant may exercise rights afforded under this section.

(iv) Upon payment by the department of commerce to the landlord for the remaining or total amount of the judgment, as applicable, the judgment is satisfied and the landlord shall file a satisfaction of judgment with the court.

(v) Nothing in this subsection (3)(e) prohibits the landlord from otherwise applying for reimbursement for an unpaid judgment pursuant to RCW 43.31.605(1)((~~(c)~~)) (b) after the tenant defaults on a payment plan ordered pursuant to (c) of this subsection.

(vi) ((~~For the period extending one year beyond the expiration of the eviction moratorium, if~~)) If a tenant demonstrates an ability to pay in order to reinstate the tenancy by means of disbursement through the landlord mitigation program account established within RCW 43.31.605(1)((~~(c)~~)) (b):

(A) Any restrictions imposed under (d) of this subsection do not apply in determining if a tenant is eligible for reinstatement under this subsection (3); and

(B) Reimbursement on behalf of the tenant to the landlord under RCW 43.31.605(1)((~~(c)~~)) (b) may include up to three months of prospective rent to stabilize the tenancy as determined by the court.

(4) If a tenant seeks to stay a writ of restitution issued pursuant to this chapter, the court may issue an ex parte stay of the writ of restitution provided the tenant or tenant's attorney submits a declaration indicating good faith efforts were made to notify the other party or, if no efforts were made, why notice could not be provided prior to the application for an ex parte stay, and describing the immediate or irreparable harm that may result if an immediate stay is not granted. The court shall require service of the order and motion to stay the writ of restitution by personal delivery, mail, facsimile, or other means most likely to afford all parties notice of the court date.

(5) In all other cases the judgment may be enforced immediately. If a writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required.

(6) This section also applies if the writ of restitution is issued pursuant to a final judgment entered after a show cause hearing conducted in accordance with RCW 59.18.380.

Sec. 3. RCW 59.18.057 and 2021 c 115 s 10 are each amended to read as follows:

(1) Every 14-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

"TO: _____

AND TO: _____

ADDRESS: _____

FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES

You are receiving this notice because the landlord alleges you are not in compliance with the terms of the lease agreement by failing to pay rent and/or utilities and/or recurring or periodic charges that are past due.

(1) Monthly rent due for (list month(s)): $ (dollar amount)

AND/OR

(2) Utilities due for (list month(s)): $ (dollar amount)

AND/OR

(3) Other recurring or periodic charges identified in the lease for (list month(s)): $ (dollar amount)

TOTAL AMOUNT DUE: $ (dollar amount)

Note - payment must be made pursuant to the terms of the rental agreement or by nonelectronic means including, but not limited to, cashier's check, money order, or other certified funds.

You must pay the total amount due to your landlord within fourteen (14) days after service of this notice or you must vacate the premises. Any payment you make to the landlord must first be applied to the total amount due as shown on this notice. Any failure to comply with this notice within fourteen (14) days after service of this notice may result in a judicial proceeding that leads to your eviction from the premises.

The Washington state Office of the Attorney General has this notice in multiple languages as well as information on available resources to help you pay your rent, including state and local rental assistance programs, on its website at www.atg.wa.gov/landlord-tenant.

State law provides you the right to legal representation and the court may be able to appoint a lawyer to represent you without cost to you if you are a qualifying low-income renter. If you believe you are a qualifying low-income renter and would like an attorney appointed to represent you, please contact the Eviction Defense Screening Line at 855-657-8387 or apply online at https://nwjustice.org/apply-online. For additional resources, call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. - 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional information to help you at http://www.washingtonlawhelp.org. Free or low-cost mediation services to assist in nonpayment of rent disputes before any judicial proceedings occur are also available at dispute resolution centers throughout the state. You can find your nearest dispute resolution center at https://www.resolutionwa.org.

State law also provides you the right to receive interpreter services at court.

OWNER/LANDLORD:_____DATE:_____

WHERE TOTAL AMOUNT DUE IS TO BE PAID: ___(owner/landlord name)___

_____(address)_____"

(2) ((~~Upon expiration of the eviction resolution pilot program established under RCW 59.18.660:~~

~~(a) The landlord must also provide the notice required in this section to the dispute resolution center located within or serving the county in which the dwelling unit is located. It is a defense to an eviction under RCW 59.12.030 that a landlord did not provide additional notice under this subsection.~~

~~(b) Dispute resolution centers are encouraged to notify the housing justice project or northwest justice project located within or serving the county in which the dispute resolution center is located, as appropriate, once notice is received from the landlord under this subsection.~~

~~(3)~~)) The form required in this section does not abrogate any additional notice requirements to tenants as required by federal, state, or local law.

Passed by the Senate April 14, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 337

[Engrossed Second Substitute Senate Bill 5258]

CONDOMINIUMS AND TOWNHOUSES—CONSTRUCTION AND SALE—VARIOUS PROVISIONS

AN ACT Relating to increasing the supply and affordability of condominium units and townhouses as an option for homeownership; amending RCW 64.35.105, 64.50.010, 64.50.020, 64.50.040, 64.90.250, 64.90.605, 64.90.645, 82.02.060, 58.17.060, and 64.55.160; reenacting and amending RCW 64.38.010; adding a new section to chapter 82.45 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 64.35.105 and 2004 c 201 s 101 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(2) "Association" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(3) "Building envelope" means the assemblies, components, and materials of a building that are intended to separate and protect the interior space of the building from the adverse effects of exterior climatic conditions.

(4) "Common element" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(5) "Condominium" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(6) "Construction professional" has the meaning in RCW 64.50.010.

(7) "Conversion condominium" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(8) "Declarant" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(9) "Declarant control" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(10) "Defect" means any aspect of a condominium unit or common element which constitutes a breach of the implied warranties set forth in RCW 64.34.445 or 64.90.670.

(11) "Limited common element" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(12) "Material" means substantive, not simply formal; significant to a reasonable person; not trivial or insignificant. When used with respect to a particular construction defect, "material" does not require that the construction defect render the unit or common element unfit for its intended purpose or uninhabitable.

(13) "Mediation" means a collaborative process in which two or more parties meet and attempt, with the assistance of a mediator, to resolve issues in dispute between them.

(14) "Mediation session" means a meeting between two or more parties to a dispute during which they are engaged in mediation.

(15) "Mediator" means a neutral and impartial facilitator with no decision-making power who assists parties in negotiating a mutually acceptable settlement of issues in dispute between them.

(16) "Person" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(17) "Public offering statement" has the meaning in ((~~RCW 64.34.410~~)) chapter 64.90 RCW.

(18) "Qualified insurer" means an entity that holds a certificate of authority under RCW 48.05.030, or an eligible insurer under chapter 48.15 RCW.

(19) "Qualified warranty" means an insurance policy issued by a qualified insurer that complies with the requirements of this chapter. A qualified warranty includes coverage for repair of physical damage caused by the defects covered by the qualified warranty, except to the extent of any exclusions and limitations under this chapter.

(20) "Resale certificate" means the statement to be delivered by the association under ((~~RCW 64.34.425~~)) chapter 64.90 RCW.

(21) "Transition date" means the date on which the declarant is required to deliver to the association the property of the association under RCW ((~~64.34.312~~)) 64.90.420.

(22) "Unit" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

(23) "Unit owner" has the meaning in RCW ((~~64.34.020~~)) 64.90.010.

Sec. 2. RCW 64.38.010 and 2021 c 227 s 9 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Assessment" means all sums chargeable to an owner by an association in accordance with RCW 64.38.020.

(2) "Baseline funding plan" means establishing a reserve funding goal of maintaining a reserve account balance above ((~~zero dollars~~)) $0 throughout the ((~~thirty-year~~)) 30-year study period described under RCW 64.38.065.

(3) "Board of directors" or "board" means the body, regardless of name, with primary authority to manage the affairs of the association.

(4) "Common areas" means property owned, or otherwise maintained, repaired or administered by the association.

(5) "Common expense" means the costs incurred by the association to exercise any of the powers provided for in this chapter.

(6) "Contribution rate" means, in a reserve study as described in RCW 64.38.065, the amount contributed to the reserve account so that the association will have cash reserves to pay major maintenance, repair, or replacement costs without the need of a special assessment.

(7) "Effective age" means the difference between the estimated useful life and remaining useful life.

(8) "Electronic transmission" or "electronically transmitted" means any electronic communication not directly involving the physical transfer of a writing in a tangible medium, but that may be retained, retrieved, and reviewed by the sender and the recipient of the communication, and that may be directly reproduced in a tangible medium by a sender and recipient.

(9) "Full funding plan" means setting a reserve funding goal of achieving one hundred percent fully funded reserves by the end of the ((~~thirty-year~~)) 30-year study period described under RCW 64.38.065, in which the reserve account balance equals the sum of the deteriorated portion of all reserve components.

(10) "Fully funded balance" means the current value of the deteriorated portion, not the total replacement value, of all the reserve components. The fully funded balance for each reserve component is calculated by multiplying the current replacement cost of the reserve component by its effective age, then dividing the result by the reserve component's useful life. The sum total of all reserve components' fully funded balances is the association's fully funded balance.

(11) "Governing documents" means the articles of incorporation, bylaws, plat, declaration of covenants, conditions, and restrictions, rules and regulations of the association, or other written instrument by which the association has the authority to exercise any of the powers provided for in this chapter or to manage, maintain, or otherwise affect the property under its jurisdiction.

(12) "Homeowners' association" or "association" means a corporation, unincorporated association, or other legal entity, each member of which is an owner of residential real property located within the association's jurisdiction, as described in the governing documents, and by virtue of membership or ownership of property is obligated to pay real property taxes, insurance premiums, maintenance costs, or for improvement of real property other than that which is owned by the member. "Homeowners' association" does not mean an association created under chapter 64.32 ((~~or~~)), 64.34, or 64.90 RCW.

(13) "Lot" means a physical portion of the real property located within an association's jurisdiction designated for separate ownership.

(14) "Owner" means the owner of a lot, but does not include a person who has an interest in a lot solely as security for an obligation. "Owner" also means the vendee, not the vendor, of a lot under a real estate contract.

(15) "Remaining useful life" means the estimated time, in years, before a reserve component will require major maintenance, repair, or replacement to perform its intended function.

(16) "Replacement cost" means the current cost of replacing, repairing, or restoring a reserve component to its original functional condition.

(17) "Reserve component" means a common element whose cost of maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.

(18) "Reserve study professional" means an independent person who is suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study in accordance with RCW 64.38.065 and 64.38.070.

(19) "Residential real property" means any real property, the use of which is limited by law, covenant or otherwise to primarily residential or recreational purposes.

(20) "Significant assets" means that the current replacement value of the major reserve components is ((~~seventy-five~~)) 75 percent or more of the gross budget of the association, excluding the association's reserve account funds.

(21) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(22) "Useful life" means the estimated time, between years, that major maintenance, repair, or replacement is estimated to occur.

Sec. 3. RCW 64.50.010 and 2020 c 18 s 23 are each amended to read as follows:

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

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross-claim, for damage or the loss of use of real or personal property caused by a defect in the construction of a residence or in the substantial remodel of a residence. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect.

(2) "Association" means an association, master association, or subassociation as defined and provided for in RCW 64.34.020(4), 64.34.276, 64.34.278, ((~~and~~)) 64.38.010(((~~(11)~~))) (12), and 64.90.010(4).

(3) "Claimant" means a homeowner or association who asserts a claim against a construction professional concerning a defect in the construction of a residence or in the substantial remodel of a residence.

(4) "Construction defect professional" means an architect, builder, builder vendor, contractor, subcontractor, engineer, inspector, or such other person with verifiable training and experience related to the defects or conditions identified in any report included with a notice of claim as set forth in RCW 64.50.020(1)(a).

(5) "Construction professional" means an architect, builder, builder vendor, contractor, subcontractor, engineer, or inspector, including, but not limited to, a dealer as defined in RCW 64.34.020 and a declarant as defined in RCW 64.34.020, performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real

property, whether operating as a sole proprietor, partnership, corporation, or other business entity.

((~~(5)~~)) (6) "Homeowner" means: (a) Any person, company, firm, partnership, corporation, or association who contracts with a construction professional for the construction, sale, or construction and sale of a residence; and (b) an "association" as defined in this section. "Homeowner" includes, but is not limited to, a subsequent purchaser of a residence from any homeowner.

((~~(6)~~)) (7) "Residence" means a single-family house, duplex, triplex, quadraplex, or a unit in a multiunit residential structure in which title to each individual unit is transferred to the owner under a condominium or cooperative system, and shall include common elements as defined in RCW 64.34.020 and common areas as defined in RCW 64.38.010(4).

((~~(7)~~)) (8) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

((~~(8)~~)) (9) "Substantial remodel" means a remodel of a residence, for which the total cost exceeds one-half of the assessed value of the residence for property tax purposes at the time the contract for the remodel work was made.

Sec. 4. RCW 64.50.020 and 2002 c 323 s 3 are each amended to read as follows:

(1) In every construction defect action brought against a construction professional, the claimant shall, no later than ((~~forty-five~~)) 45 days before filing an action, serve written notice of claim on the construction professional.

(a) The notice of claim shall state that the claimant asserts a construction defect claim against the construction professional and shall describe the claim in reasonable detail sufficient to determine the general nature of the defect.

(b) If the claimant is a condominium association created after the effective date of this section, the written notice of claim shall include a written report from a construction defect professional. In addition to describing the claim in reasonable detail sufficient to determine the general nature of the defect the written report shall state the construction defect professional's qualifications, the manner and type of inspection upon which the report was based, and the general location of the defect.

(2) Within ((~~twenty-one~~)) 14 days after service of the notice of claim, the construction professional may serve a written response demanding a meeting with the claimant and its expert, including the construction defect professional who authored the report required in subsection (1)(b) of this section to confer regarding the report and its contents. The meeting shall take place within 14 days of service of the construction professional's demand or at such later date as mutually agreed to by the parties.

(3) Within 14 days after the meeting referenced in subsection (2) of this section or, in the absence of a demand for such meeting, within 21 days after service of the notice of claim, whichever is later, the construction professional shall serve a written response on the claimant by registered mail or personal service. The written response shall:

(a) Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the construction professional shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim;

(b) Offer to compromise and settle the claim by monetary payment without inspection. A construction professional's offer under this subsection ((~~(2)~~)) (3)(b) to compromise and settle a homeowner's claim may include, but is not limited to, an express offer to purchase the claimant's residence that is the subject of the claim, and to pay the claimant's reasonable relocation costs; or

(c) State that the construction professional disputes the claim and will neither remedy the construction defect nor compromise and settle the claim.

((~~(3)~~)) (4)(a) If the construction professional disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection ((~~(2)~~)) (3) of this section, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(b) If the claimant rejects the inspection proposal or the settlement offer made by the construction professional pursuant to subsection ((~~(2)~~)) (3) of this section, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within ((~~thirty~~)) 30 days after the claimant's receipt of the construction professional's response, either an acceptance or rejection of the inspection proposal or settlement offer, then at anytime thereafter the construction professional may terminate the proposal or offer by serving written notice to the claimant, and the claimant may thereafter bring an action against the construction professional for the construction defect claim described in the notice of claim.

((~~(4)~~)) (5)(a) If the claimant elects to allow the construction professional to inspect in accordance with the construction professional's proposal pursuant to subsection ((~~(2)~~)) (3)(a) of this section, the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to inspect the premises and the claimed defect.

(b) Within ((~~fourteen~~)) 14 days following completion of the inspection, the construction professional shall serve on the claimant:

(i) A written offer to remedy the construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect described in the claim, and a timetable for the completion of such construction;

(ii) A written offer to compromise and settle the claim by monetary payment pursuant to subsection ((~~(2)~~)) (3)(b) of this section; or

(iii) A written statement that the construction professional will not proceed further to remedy the defect.

(c) If the construction professional does not proceed further to remedy the construction defect within the agreed timetable, or if the construction professional fails to comply with the provisions of (b) of this subsection, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(d) If the claimant rejects the offer made by the construction professional pursuant to (b)(i) or (ii) of this subsection to either remedy the construction

defect or to compromise and settle the claim by monetary payment, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection notice, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within ((~~thirty~~)) 30 days after the claimant's receipt of the construction professional's response, either an acceptance or rejection of the offer made pursuant to (b)(i) or (ii) of this subsection, then at anytime thereafter the construction professional may terminate the offer by serving written notice to the claimant.

(((~~(5)~~))) (6)(a) Any claimant accepting the offer of a construction professional to remedy the construction defect pursuant to subsection (((~~(4)~~))) (5)(b)(i) of this section shall do so by serving the construction professional with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than ((~~thirty~~)) 30 days after receipt of the offer. The claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to perform and complete the construction by the timetable stated in the offer.

(b) The claimant and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of construction stated in the offer, including, but not limited to, repair of additional defects.

(((~~(6)~~))) (7) Any action commenced by a claimant prior to compliance with the requirements of this section shall be subject to dismissal without prejudice, and may not be recommenced until the claimant has complied with the requirements of this section.

(((~~(7)~~))) (8) Nothing in this section may be construed to prevent a claimant from commencing an action on the construction defect claim described in the notice of claim if the construction professional fails to perform the construction agreed upon, fails to remedy the defect, or fails to perform by the timetable agreed upon pursuant to subsection (((~~(2)~~))) (3)(a) or (((~~(5)~~))) (6) of this section.

(((~~(8)~~))) (9) Prior to commencing any action alleging a construction defect, or after the dismissal of any action without prejudice pursuant to subsection (((~~(6)~~))) (7) of this section, the claimant may amend the notice of claim to include construction defects discovered after the service of the original notice of claim, and must otherwise comply with the requirements of this section for the additional claims. The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose. Claims for defects discovered after the commencement or recommencement of an action may be added to such action only after providing notice to the construction professional of the defect and allowing for response under subsection (((~~(2)~~))) (3) of this section.

(10) If the claimant is an association, and notwithstanding any contrary provisions in the association's governing documents, the association's board of director's ability to incur expenses to prepare and serve a notice of claim and any related reports and otherwise comply with the requirements of this chapter shall not be restricted.

Sec. 5. RCW 64.50.040 and 2002 c 323 s 5 are each amended to read as follows:

(1)(a) In the event the board of directors, pursuant to RCW 64.34.304(1)(d) or 64.38.020(4), institutes an action asserting defects in the construction of two or more residences, common elements, or common areas, this section shall apply. For purposes of this section, "action" has the same meaning as set forth in RCW 64.50.010.

(b) The board of directors shall substantially comply with the provisions of this section.

(2)(a) Prior to the service of the summons and complaint on any defendant with respect to an action governed by this section, the board of directors shall mail or deliver written notice of the commencement or anticipated commencement of such action to each homeowner at the last known address described in the association's records.

(b) The notice required by (a) of this subsection shall state a general description of the following:

(i) The nature of the action and the relief sought; ((~~and~~))

(ii) To the extent applicable, the existence of the report required in RCW 64.50.020(1)(a), which shall be made available to each homeowner upon request;

(iii) A summary of the construction professional's response pursuant to RCW 64.50.020(3), if any; and

(iv) The expenses and fees that the board of directors anticipates will be incurred in prosecuting the action.

(3) Nothing in this section may be construed to:

(a) Require the disclosure in the notice or the disclosure to a unit owner of attorney-client communications or other privileged communications;

(b) Permit the notice to serve as a basis for any person to assert the waiver of any applicable privilege or right of confidentiality resulting from, or to claim immunity in connection with, the disclosure of information in the notice; or

(c) Limit or impair the authority of the board of directors to contract for legal services, or limit or impair the ability to enforce such a contract for legal services.

Sec. 6. RCW 64.90.250 and 2018 c 277 s 211 are each amended to read as follows:

(1) To exercise any development right reserved under RCW 64.90.225(1)(((~~h~~))) (g), the declarant must prepare, execute, and record any amendments to the declaration and map in accordance with the requirements of RCW 64.90.245 and 64.90.285(3). The declarant is the unit owner of any units created. The amendment to the declaration must assign an identifying number to each new unit created and, except in the case of subdivision, combination, or conversion of units described in subsection (3) of this section, reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required under RCW 64.90.240. The amendments are effective upon recording.

(2) Development rights may be reserved within any real estate added to the common interest community if the amendment to the declaration adding that real estate includes all matters required under RCW 64.90.225 and 64.90.230 and the amendment to the map includes all matters required under RCW 64.90.245. This

subsection does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to RCW 64.90.225(1)(h).

(3) When a declarant exercises a development right to subdivide, combine, or convert a unit previously created into additional units or common elements, or both:

(a) If the declarant converts the unit entirely into common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by condemnation under RCW 64.90.030; or

(b) If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

(4) If the declaration provides, pursuant to RCW 64.90.225(1)(h), that all or a portion of the real estate is subject to a right of withdrawal:

(a) If all the real estate is subject to withdrawal, and the declaration or map or amendment to the declaration or map does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn if a unit in that real estate has been conveyed to a purchaser; or

(b) If any portion of the real estate is subject to withdrawal as described in the declaration or map or amendment to the declaration or map, none of that portion of the real estate may be withdrawn if a unit in that portion has been conveyed to a purchaser.

(5) If the declarant combines two or more units into a lesser number of units, whether or not any part of a unit is converted into common elements or common elements are converted units, the amendment to the declaration must reallocate all of the allocated interests of the units being combined into the unit or units created by the combination in any reasonable manner prescribed by the declarant.

(6) A unit conveyed to a purchaser may not be withdrawn pursuant to subsection (4)(a) or (b) of this section without the consent of the unit owner of that unit and the holder of a security interest in the unit.

Sec. 7. RCW 64.90.605 and 2018 c 277 s 402 are each amended to read as follows:

(1) Except as provided otherwise in subsection (2) of this section, a declarant required to deliver a public offering statement pursuant to subsection (3) of this section must prepare a public offering statement conforming to the requirements of RCW 64.90.610, 64.90.615, and 64.90.620.

(2) A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant or to a dealer who intends to offer units in the ((~~condominium~~)) common interest community.

(3)(a) Any declarant or dealer who offers to convey a unit for the person's own account to a purchaser must provide the purchaser of the unit with a copy of a public offering statement and all material amendments to the public offering statement before conveyance of that unit.

(b) Any agent, attorney, or other person assisting the declarant or dealer in preparing the public offering statement may rely upon information provided by the declarant or dealer without independent investigation. The agent, attorney, or

other person is not liable for any material misrepresentation in or omissions of material facts from the public offering statement unless the person had actual knowledge of the misrepresentation or omission at the time the public offering statement was prepared.

(c) The declarant or dealer is liable for any misrepresentation contained in the public offering statement or for any omission of material fact from the public offering statement if the declarant or dealer had actual knowledge of the misrepresentation or omission or, in the exercise of reasonable care, should have known of the misrepresentation or omission.

(4) If a unit is part of a common interest community and is part of any other real estate regime in connection with the sale of which the delivery of a public offering statement is required under the laws of this state, a single public offering statement conforming to the requirements of RCW 64.90.610, 64.90.615, and 64.90.620 as those requirements relate to each regime in which the unit is located, and to any other requirements imposed under the laws of this state, may be prepared and delivered in lieu of providing two or more public offering statements.

(5) A declarant is not required to prepare and deliver a public offering statement in connection with the sale of any unit owned by the declarant, or to obtain for or provide to the purchaser a report or statement required under RCW 64.90.610(1)(oo), 64.90.620(1), or 64.90.655, upon the later of:

(a) The termination or expiration of all special declarant rights;

(b) The expiration of all periods within which claims or actions for a breach of warranty arising from defects involving the common elements under RCW 64.90.680 must be filed or commenced, respectively, by the association against the declarant; or

(c) The time when the declarant ceases to meet the definition of a dealer under RCW 64.90.010.

(6) After the last to occur of any of the events described in subsection (5) of this section, a declarant must deliver to the purchaser of a unit owned by the declarant a resale certificate under RCW 64.90.640(2) together with:

(a) The identification of any real property not in the common interest community that unit owners have a right to use and a description of the terms of such use;

(b) A brief description or a copy of any express construction warranties to be provided to the purchaser;

(c) A statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant arising out of the construction, sale, or administration of any common interest community within the state of Washington within the previous five years, together with the results of the litigation, if known;

(d) Whether timesharing is permitted or prohibited, and, if permitted, a statement that the purchaser of a time share unit is entitled to receive the disclosure document required under chapter 64.36 RCW; and

(e) Any other information and cross-references that the declarant believes will be helpful in describing the common interest community to the purchaser, all of which may be included or not included at the option of the declarant.

(7) A declarant is not liable to a purchaser for the failure or delay of the association to provide the resale certificate in a timely manner, but the purchase contract is voidable by the purchaser of a unit sold by the declarant until the resale certificate required under RCW 64.90.640(2) and the information required under subsection (6) of this section have been provided and for five days thereafter or until conveyance, whichever occurs first.

Sec. 8. RCW 64.90.645 and 2021 c 260 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, any earnest money deposit, as defined in RCW 64.04.005, made in connection with the right to purchase a unit from a person required to deliver a public offering statement pursuant to RCW 64.90.605(3) must be placed in escrow and held in this state in an escrow or trust account designated solely for that purpose by a licensed title insurance company or agent, a licensed attorney, a real estate broker or independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until: (a) Delivered to the declarant at closing, (b) delivered to the declarant because of the purchaser's default under a contract to purchase the unit, (c) refunded to the purchaser, or (d) delivered to a court in connection with the filing of an interpleader action.

(2)(a) If a purchase agreement for the sale of a unit provides that deposit funds may be used for construction costs and the declarant obtains and maintains a surety bond as required by this section, the declarant may withdraw escrow funds when construction of improvements has begun. The funds may be used only for actual building and construction costs of the project in which the unit is located.

(b) The bond must be issued by a surety insurer licensed in this state in favor of the purchaser in an amount adequate to cover the amount of the deposit to be withdrawn. The declarant may not withdraw more than the face amount of the bond. The bond must be payable to the purchaser if the purchaser obtains a final judgment against the declarant requiring the declarant to return the deposit pursuant to the purchase agreement. The bond may be either in the form of an individual bond for each deposit accepted by the declarant or in the form of a blanket bond assuring the return of all deposits received by the declarant.

(c) The party holding escrow funds who releases all or anyportion of the funds to the declarant has no obligation to monitor theprogress of construction or the expenditure of the funds by thedeclarant and is not liable to any purchaser for the release of fundspursuant to this section.

(3) ((~~A~~)) The amount of deposit ((~~under~~)) funds that may be used pursuant to subsection (2) of this section may not exceed five percent of the purchase price.

NEW SECTION. **Sec. 9.** A new section is added to chapter 82.45 RCW to read as follows:

(1) The down payment assistance account is created in the custody of the state treasurer. Receipts from the real estate excise tax on sales of condominiums or townhouses to persons using a down payment assistance program offered by the Washington state housing finance commission must be deposited in the account, as provided in subsection (2) of this section. Expenditures from the account may be used only for payment toward a person's down payment

assistance loan that was used to purchase a condominium or townhouse for which the tax was collected. Only the Washington state housing finance commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2)(a) Beginning June 15, 2024, and each June 15th thereafter, the department must notify the economic and revenue forecast council of the total amount received under RCW 82.45.060 from sales of condominiums or townhouses to persons using a down payment assistance program offered by the Washington state housing finance commission during the prior calendar year.

(b) Beginning in fiscal year 2025, and each fiscal year thereafter, the legislature must appropriate from the general fund to this account the lesser of (i) the amount received under RCW 82.45.060 on sales of condominiums or townhouses to persons using a down payment assistance program offered by the Washington state housing finance commission during the prior calendar year, as determined under (a) of this subsection, or (ii) $250,000 per fiscal year.

(c) On or before March 1, 2024, and each March 1st thereafter, the Washington state housing finance commission must provide the department with the following information for each sale of a condominium or townhouse to a person using a down payment assistance program offered by the Washington state housing finance commission that occurred during the prior calendar year:

(i) The real estate excise tax affidavit number associated with the sale;

(ii) The date of sale;

(iii) The parcel number of the property sold;

(iv) The street address of the property sold;

(v) The county in which the property sold is located;

(vi) The full legal name of the seller, or sellers, as shown on the real estate excise tax affidavit;

(vii) The full legal name of the buyer, or buyers, as shown on the real estate excise tax affidavit; and

(viii) Any additional information the department may require to verify the property sold is a condominium or townhouse sold to persons using a down payment assistance program offered by the Washington state housing finance commission.

(d) For the purposes of this subsection, "townhouse" means dwelling units constructed in a row of two or more attached units where each dwelling unit shares at least one common wall with an adjacent unit and is accessed by a separate outdoor entrance.

(3) This section expires January 1, 2034.

Sec. 10. RCW 82.02.060 and 2021 c 72 s 1 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. <u>The schedule shall reflect the proportionate impact of new housing units, including multifamily and condominium units, based on the square footage, number of bedrooms, or trips generated, in the housing unit in order to</u>

produce a proportionally lower impact fee for smaller housing units. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, including development of an early learning facility, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3)(a) May not impose an impact fee on development activities of an early learning facility greater than that imposed on commercial retail or commercial office development activities that generate a similar number, volume, type, and duration of vehicle trips;

(b) When a facility or development has more than one use, the limitations in this subsection (3) or the exemption applicable to an early learning facility in subsections (2) and (4) of this section only apply to that portion that is developed as an early learning facility. The impact fee assessed on an early learning facility in such a development or facility may not exceed the least of the impact fees assessed on comparable businesses in the facility or development;

(4) May provide an exemption from impact fees for low-income housing or for early learning facilities. Local governments that grant exemptions for low-income housing or for early learning facilities under this subsection (4) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts, except as provided in (b) of this subsection. These exemptions are subject to the following requirements:

(a) An exemption for low-income housing granted under subsection (2) of this section or this subsection (4) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion;

(b) An exemption for early learning facilities granted under subsection (2) of this section or this subsection (4) may be a full waiver without an explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts if the local government requires the developer to record a covenant that requires that at least 25 percent of the children and families using

the early learning facility qualify for state subsidized child care, including early childhood education and assistance under chapter 43.216 RCW, and that provides that if the property is converted to a use other than for an early learning facility, the property owner must pay the applicable impact fees in effect at the time of conversion, and that also provides that if at no point during a calendar year does the early learning facility achieve the required percentage of children and families qualified for state subsidized child care using the early learning facility, the property owner must pay 20 percent of the impact fee that would have been imposed on the development had there not been an exemption within 90 days of the local government notifying the property owner of the breach, and any balance remaining thereafter shall be a lien on the property; and

(c) Covenants required by (a) and (b) of this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (4) for low-income housing or an early learning facility may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (4);

(5) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

(6) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

(7) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

(8) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development; ((~~and~~))

(9) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies; and

(10) Must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of this section to take effect six months after the jurisdiction's next periodic comprehensive plan update required under RCW 36.70A.130.

For purposes of this section, "low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

For the purposes of this section, "early learning facility" has the same meaning as in RCW 43.31.565.

Sec. 11. RCW 58.17.060 and 1990 1st ex.s. c 17 s 51 are each amended to read as follows:

(1) The legislative body of a city, town, or county shall adopt regulations and procedures, and appoint administrative personnel for the summary approval of short plats and short subdivisions or alteration or vacation thereof. When an alteration or vacation involves a public dedication, the alteration or vacation shall be processed as provided in RCW 58.17.212 or 58.17.215. Such regulations shall be adopted by ordinance and shall provide that a short plat and short subdivision may be approved only if written findings that are appropriate, as provided in RCW 58.17.110, are made by the administrative personnel, and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions and may require surveys and monumentations and shall require filing of a short plat, or alteration or vacation thereof, for record in the office of the county auditor: PROVIDED, That such regulations must contain a requirement that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels, nothing in this section shall prevent the owner who filed the short plat from filing an alteration within the five-year period to create up to a total of four lots within the original short plat boundaries: PROVIDED FURTHER, That such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief.

An ordinance requiring a survey shall require that the survey be completed and filed with the application for approval of the short subdivision.

(2) Cities, towns, and counties shall include in their short plat regulations and procedures pursuant to subsection (1) of this section provisions for considering sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

(3) All cities, towns, and counties shall include in their short plat regulations procedures for unit lot subdivisions allowing division of a parent lot into separately owned unit lots. Portions of the parent lot not subdivided for individual unit lots shall be owned in common by the owners of the individual unit lots, or by a homeowners' association comprised of the owners of the individual unit lots.

Sec. 12. RCW 64.55.160 and 2005 c 456 s 17 are each amended to read as follows:

(1) On or before the ((~~sixtieth~~)) 60th day following completion of the mediation pursuant to RCW 64.55.120(4) and following filing and service of the complaint, the declarant, association, or party unit owner may serve on an adverse party an offer to allow judgment to be entered. The offer of judgment shall specify the amount of damages, not including costs or fees, that the declarant, association, or party unit owner is offering to pay or receive. A declarant's offer shall also include its commitment to pay costs and fees that may be awarded as provided in this section. The declarant, association, or party unit owner may make more than one offer of judgment so long as each offer is timely made. Each subsequent offer supersedes and replaces the previous offer. Any offer not accepted within ((~~twenty-one~~)) 21 days of the service of that offer is deemed rejected and withdrawn and evidence thereof is not admissible and may

not be provided to the court or arbitrator except in a proceeding to determine costs and fees or as part of the motion identified in subsection (2) of this section.

(2) A declarant's offer must include a demonstration of ability to pay damages, costs, and fees, including reasonable attorneys' fees, within thirty days of acceptance of the offer of judgment. The demonstration of ability to pay shall include a sworn statement signed by the declarant, the attorney representing the declarant, and, if any insurance proceeds will be used to fund any portion of the offer, an authorized representative of the insurance company. If the association or party unit owner disputes the adequacy of the declarant's demonstration of ability to pay, the association or party unit owner may file a motion with the court requesting a ruling on the adequacy of the declarant's demonstration of ability to pay. Upon filing of such motion, the deadline for a response to the offer shall be tolled from the date the motion is filed until the court has ruled.

(3) An association or party unit owner that accepts the declarant's offer of judgment shall be deemed the prevailing party and, in addition to recovery of the amount of the offer, shall be entitled to a costs and fees award, including reasonable attorneys' fees, in an amount to be determined by the court in accordance with applicable law.

(4) If the amount of the final nonappealable or nonappealed judgment, exclusive of costs or fees, is not more favorable to the offeree than the offer of judgment, then the offeror is deemed the prevailing party for purposes of this section only and is entitled to an award of costs and fees, including reasonable attorneys' fees, incurred after the date the last offer of judgment was rejected and through the date of entry of a final nonappealable or nonappealed judgment, in an amount to be determined by the court in accordance with applicable law. The nonprevailing party shall not be entitled to receive any award of costs and fees.

(5) If the final nonappealable or nonappealed judgment on damages, not including costs or fees, is more favorable to the offeree than the last offer of judgment, then the court shall determine which party is the prevailing party and shall determine the amount of the costs and fees award, including reasonable attorneys' fees, in accordance with applicable law.

(6) Notwithstanding any other provision in this section, with respect to claims brought by an association or unit owner, the liability for declarant's costs and fees, including reasonable attorneys' fees, shall:

(a) With respect to claims brought by an association, not exceed five percent of the assessed value of the condominium as a whole, which is determined by the aggregate tax-assessed value of all units at the time of the award; and

(b) With respect to claims brought by a party unit owner, not exceed five percent of the assessed value of the unit at the time of the award.

NEW SECTION. **Sec. 13.** Sections 3 through 5 of this act apply only to construction defect claims commenced after the effective date of this section.

NEW SECTION. **Sec. 14.** Section 9 of this act takes effect January 1, 2024.

Passed by the Senate April 21, 2023.
Passed by the House April 20, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 338

[Second Substitute Senate Bill 5290]

PROJECT PERMITS—LOCAL PROJECT REVIEW—VARIOUS PROVISIONS

AN ACT Relating to consolidating local permit review processes; amending RCW 36.70B.140, 36.70B.020, 36.70B.070, 36.70B.080, and 36.70B.160; reenacting and amending RCW 36.70B.110; adding new sections to chapter 36.70B RCW; creating new sections; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70B.140 and 1995 c 347 s 418 are each amended to read as follows:

(1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process or time periods for approval which are different from that provided in RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130.

(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

(3) A local government must exclude project permits for interior alterations from site plan review, provided that the interior alterations do not result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with federal emergency management agency substantial improvement thresholds; or

(c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

(4) Nothing in this section exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes.

(5) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a consolidated permit review grant program. The department may award grants to any local government that provides, by ordinance, resolution, or other action, a commitment to the following building permit review consolidation requirements:

(a) Issuing final decisions on residential permit applications within 45 business days or 90 calendar days.

(i) To achieve permit review within the stated time periods, a local government must provide consolidated review for building permit applications. This may include an initial technical peer review of the application for conformity with the requirements of RCW 36.70B.070 by all departments, divisions, and sections of the local government with jurisdiction over the project.

(ii) A local government may contract with a third-party business to conduct the consolidated permit review or as additional inspection staff. Any funds expended for such a contract may be eligible for reimbursement under this act.

(iii) Local governments are authorized to use grant funds to contract outside assistance to audit their development regulations to identify and correct barriers to housing development.

(b) Establishing an application fee structure that would allow the jurisdiction to continue providing consolidated permit review within 45 business days or 90 calendar days.

(i) A local government may consult with local building associations to develop a reasonable fee system.

(ii) A local government must determine, no later than July 1, 2024, the specific fee structure needed to provide permit review within the time periods specified in this subsection (1)(b).

(2) A jurisdiction that is awarded a grant under this section must provide a quarterly report to the department of commerce. The report must include the average and maximum time for permit review during the jurisdiction's participation in the grant program.

(3) If a jurisdiction is unable to successfully meet the terms and conditions of the grant, the jurisdiction must enter a 90-day probationary period. If the jurisdiction is not able to meet the requirements of this section by the end of the probationary period, the jurisdiction is no longer eligible to receive grants under this section.

(4) For the purposes of this section, "residential permit" means a permit issued by a city or county that satisfies the conditions of RCW 19.27.015(5) and is within the scope of the international residential code, as adopted in accordance with chapter 19.27 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a grant program for local governments to update their permit review process from paper filing systems to software systems capable of processing digital permit applications, virtual inspections, electronic review, and with capacity for video storage.

(2) The department of commerce may only provide a grant under this section to a city if the city allows for the development of at least two units per lot on all lots zoned predominantly for residential use within its jurisdiction.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce must convene a digital permitting process work group to examine potential license and permitting software for local governments to encourage streamlined and efficient permit review.

(2) The department of commerce, in consultation with the association of Washington cities and Washington state association of counties, shall appoint members to the work group representing groups including but not limited to:

(a) Cities and counties;

(b) Building industries; and

(c) Building officials.

(3) The department of commerce must convene the first meeting of the work group by August 1, 2023. The department must submit a final report to the governor and the appropriate committees of the legislature by August 1, 2024. The final report must:

(a) Evaluate the existing need for digital permitting systems, including impacts on existing digital permitting systems that are already in place;

(b) Review barriers preventing local jurisdictions from accessing or adopting digital permitting systems;

(c) Evaluate the benefits and costs associated with a statewide permitting software system; and

(d) Provide budgetary, administrative policy, and legislative recommendations to increase the adoption of or establish a statewide system of digital permit review.

Sec. 5. RCW 36.70B.020 and 1995 c 347 s 402 are each amended to read as follows:

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

(1) "Closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

(2) "Local government" means a county, city, or town.

(3) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

(4) "Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to ((~~building permits,~~)) subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones ((~~authorized by a comprehensive plan or subarea plan~~)) which do not require a comprehensive plan amendment, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(5) "Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

Sec. 6. RCW 36.70B.070 and 1995 c 347 s 408 are each amended to read as follows:

(1)(a) Within ((~~twenty-eight~~)) 28 days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall ((~~mail or~~)) provide ((~~in person~~)) a written determination to the applicant((~~, stating~~)).

(b) The written determination must state either:

(((~~a~~))) (i) That the application is complete; or

(((~~b~~))) (ii) That the application is incomplete and that the procedural submission requirements of the local government have not been met. The determination shall outline what is necessary to make the application procedurally complete.

(c) The number of days shall be calculated by counting every calendar day.

(d) To the extent known by the local government, the local government shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

(2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government ((~~and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently~~)), as outlined on the project permit application. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the local government. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur. However, if the procedural submission requirements, as outlined on the project permit application have been provided, the need for additional information or studies may not preclude a completeness determination.

(3) The determination of completeness may include or be combined with the following ((~~as optional information~~)):

(a) A preliminary determination of those development regulations that will be used for project mitigation;

(b) A preliminary determination of consistency, as provided under RCW 36.70B.040; ((~~or~~))

(c) Other information the local government chooses to include; or

(d) The notice of application pursuant to the requirements in RCW 36.70B.110.

(4)(a) An application shall be deemed procedurally complete on the 29th day after receiving a project permit application under this section if the local government does not provide a written determination to the applicant that the application is procedurally incomplete as provided in subsection (1)(b)(ii) of this section. When the local government does not provide a written determination, they may still seek additional information or studies as provided for in subsection (2) of this section.

(b) Within ((~~fourteen~~)) 14 days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local government shall notify the applicant whether the application is complete or what additional information is necessary.

(c) The notice of application shall be provided within 14 days after the determination of completeness pursuant to RCW 36.70B.110.

Sec. 7. RCW 36.70B.080 and 2004 c 191 s 2 are each amended to read as follows:

(1)(a) Development regulations adopted pursuant to RCW 36.70A.040 must establish and implement time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. The time periods for local government actions for each type of complete project permit application or project type should not exceed ((~~one hundred twenty days, unless the local government makes written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types~~)) those specified in this section.

((~~The~~)) (b) For project permits submitted after January 1, 2025, the development regulations must, for each type of permit application, specify the contents of a completed project permit application necessary for the complete compliance with the time periods and procedures.

(((~~2~~))) (c) A jurisdiction may exclude certain permit types and timelines for processing project permit applications as provided for in RCW 36.70B.140.

(d) The time periods for local government action to issue a final decision for each type of complete project permit application or project type subject to this chapter should not exceed the following time periods unless modified by the local government pursuant to this section or RCW 36.70B.140:

(i) For project permits which do not require public notice under RCW 36.70B.110, a local government must issue a final decision within 65 days of the determination of completeness under RCW 36.70B.070;

(ii) For project permits which require public notice under RCW 36.70B.110, a local government must issue a final decision within 100 days of the determination of completeness under RCW 36.70B.070; and

(iii) For project permits which require public notice under RCW 36.70B.110 and a public hearing, a local government must issue a final decision within 170 days of the determination of completeness under RCW 36.70B.070.

(e) A jurisdiction may modify the provisions in (d) of this subsection to add permit types not identified, change the permit names or types in each category, address how consolidated review time periods may be different than permits submitted individually, and provide for how projects of a certain size or type

may be differentiated, including by differentiating between residential and nonresidential permits. Unless otherwise provided for the consolidated review of more than one permit, the time period for a final decision shall be the longest of the permit time periods identified in (d) of this subsection or as amended by a local government.

(f) If a local government does not adopt an ordinance or resolution modifying the provisions in (d) of this subsection, the time periods in (d) of this subsection apply.

(g) The number of days an application is in review with the county or city shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

(i) Any period between the day that the county or city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;

(ii) Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the local government, in writing, that they would like to resume the application. A local government may set conditions for the temporary suspension of a permit application; and

(iii) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

(h) The time periods for a local government to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required by the local government under RCW 36.70B.070.

(i) If, at any time, an applicant informs the local government, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the county or city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for local government action to issue a final decision for each type of project permit that is subject to this chapter. Any written notice from the local government to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

(j) Annual amendments to the comprehensive plan are not subject to the requirements of this section.

(k) A county's or city's adoption of a resolution or ordinance to implement this subsection shall not be subject to appeal under chapter 36.70A RCW unless the resolution or ordinance modifies the time periods provided in (d) of this subsection by providing for a review period of more than 170 days for any project permit.

(l)(i) When permit time periods provided for in (d) of this subsection, as may be amended by a local government, and as may be extended as provided for in (i) of this subsection, are not met, a portion of the permit fee must be refunded to the applicant as provided in this subsection. A local government may provide for the collection of only 80 percent of a permit fee initially, and for the collection of the remaining balance if the permitting time periods are met. The portion of the fee refunded for missing time periods shall be:

(A) 10 percent if the final decision of the project permit application was made after the applicable deadline but the period from the passage of the deadline to the time of issuance of the final decision did not exceed 20 percent of the original time period; or

(B) 20 percent if the period from the passage of the deadline to the time of the issuance of the final decision exceeded 20 percent of the original time period.

(ii) Except as provided in RCW 36.70B.160, the provisions in subsection (l)(i) of this section are not applicable to cities and counties which have implemented at least three of the options in RCW 36.70B.160(1) (a) through (j) at the time an application is deemed procedurally complete.

(2)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least ((~~twenty thousand~~)) 20,000 must, for each type of permit application, identify the total number of project permit applications for which decisions are issued according to the provisions of this chapter. For each type of project permit application identified, these counties and cities must establish and implement a deadline for issuing a notice of final decision as required by subsection (1) of this section and minimum requirements for applications to be deemed complete under RCW 36.70B.070 as required by subsection (1) of this section.

(b) Counties and cities subject to the requirements of this subsection also must prepare an annual performance report((~~s~~)) that ((~~include, at a minimum, the following information for each type of project permit application identified in accordance with the requirements of (a) of this subsection:~~

~~(i) Total number of complete applications received during the year;~~

~~(ii) Number of complete applications received during the year for which a notice of final decision was issued before the deadline established under this subsection;~~

~~(iii) Number of applications received during the year for which a notice of final decision was issued after the deadline established under this subsection;~~

~~(iv) Number of applications received during the year for which an extension of time was mutually agreed upon by the applicant and the county or city;~~

~~(v) Variance of actual performance, excluding applications for which mutually agreed time extensions have occurred, to the deadline established under this subsection during the year; and~~

~~(vi) The mean processing time and the number standard deviation from the mean.~~

~~(c) Counties and cities subject to the requirements of this subsection must:~~

~~(i) Provide notice of and access to the annual performance reports through the county's or city's website; and~~

~~(ii) Post electronic facsimiles of the annual performance reports through the county's or city's website. Postings on a county's or city's website indicating that the reports are available by contacting the appropriate county or city department or official do not comply with the requirements of this subsection.~~

~~If a county or city subject to the requirements of this subsection does not maintain a website, notice of the reports must be given by reasonable methods, including but not limited to those methods specified in RCW 36.70B.110(4).~~

~~(3)~~))) includes information outlining time periods for certain permit types associated with housing. The report must provide:

(i) Permit time periods for certain permit processes in the county or city in relation to those established under this section, including whether the county or city has established shorter time periods than those provided in this section;

(ii) The total number of decisions issued during the year for the following permit types: Preliminary subdivisions, final subdivisions, binding site plans, permit processes associated with the approval of multifamily housing, and construction plan review for each of these permit types when submitted separately;

(iii) The total number of decisions for each permit type which included consolidated project permit review, such as concurrent review of a rezone or construction plans;

(iv) The average number of days from a submittal to a decision being issued for the project permit types listed in subsection (2)(a)(ii) of this section. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a decision is issued on the application. The number of days shall be calculated by counting every calendar day;

(v) The total number of days each project permit application of a type listed in subsection (2)(a)(ii) of this section was in review with the county or city. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the application. The number of days shall be calculated by counting every calendar day. The days the application is in review with the county or city does not include the time periods in subsection (1)(g)(i)-(iii) of this section;

(vi) The total number of days that were excluded from the time period calculation under subsection (1)(g)(i)-(iii) of this section for each project permit application of a type listed in subsection (2)(a)(ii) of this section.

(c) Counties and cities subject to the requirements of this subsection must:

(i) Post the annual performance report through the county's or city's website; and

(ii) Submit the annual performance report to the department of commerce by March 1st each year.

(d) No later than July 1st each year, the department of commerce shall publish a report which includes the annual performance report data for each county and city subject to the requirements of this subsection and a list of those counties and cities whose time periods are shorter than those provided for in this section.

The annual report must also include key metrics and findings from the information collected.

(e) The initial annual report required under this subsection must be submitted to the department of commerce by March 1, 2025, and must include information from permitting in 2024.

(3) Nothing in this section prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government.

((~~(4) The department of community, trade, and economic development shall work with the counties and cities to review the potential implementation costs of the requirements of subsection (2) of this section. The department, in cooperation with the local governments, shall prepare a report summarizing the projected costs, together with recommendations for state funding assistance for implementation costs, and provide the report to the governor and appropriate committees of the senate and house of representatives by January 1, 2005.~~))

Sec. 8. RCW 36.70B.160 and 1995 c 347 s 420 are each amended to read as follows:

(1) Each local government is encouraged to adopt further project review and code provisions to provide prompt, coordinated review and ensure accountability to applicants and the public((~~, including expedited review for project permit applications for projects that are consistent with adopted development regulations and within the capacity of systemwide infrastructure improvements~~)) by:

(a) Expediting review for project permit applications for projects that are consistent with adopted development regulations;

(b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law;

(c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources;

(d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly;

(e) Having new positions budgeted that are contingent on increased permit revenue;

(f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute;

(g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal;

(h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;

(i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or

(j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a

second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.

(2)(a) After January 1, 2026, a county or city must adopt additional measures under subsection (1) of this section at the time of its next comprehensive plan update under RCW 36.70A.130 if it meets the following conditions:

(i) The county or city has adopted at least three project review and code provisions under subsection (1) of this section more than five years prior; and

(ii) The county or city is not meeting the permitting deadlines established in RCW 36.70B.080 at least half of the time over the period since its most recent comprehensive plan update under RCW 36.70A.130.

(b) A city or county that is required to adopt new measures under (a) of this subsection but fails to do so becomes subject to the provisions of RCW 36.70B.080(1)(l), notwithstanding RCW 36.70B.080(1)(l)(ii).

(((~~(2)~~))) (3) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution.

(((~~(3)~~))) (4) Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.

(((~~(4)~~))) (5) Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.

NEW SECTION. **Sec. 9.** A new section is added to chapter 36.70B RCW to read as follows:

(1) The department of commerce shall develop and provide technical assistance and guidance to counties and cities in setting fee structures under RCW 36.70B.160(1) to ensure that the fees are reasonable and sufficient to recover true costs. The guidance must include information on how to utilize growth factors or other measures to reflect cost increases over time.

(2) When providing technical assistance under subsection (1) of this section, the department of commerce must prioritize local governments that have implemented at least three of the options in RCW 36.70B.160(1).

Sec. 10. RCW 36.70B.110 and 1997 c 429 s 48 and 1997 c 396 s 1 are each reenacted and amended to read as follows:

(1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040 shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a threshold determination under chapter 43.21C RCW concurrently with the notice of application, the notice of application may be combined with the threshold determination and the scoping notice for a determination of significance. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application. Nothing in this section or this chapter prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under chapter 43.21C RCW or from allowing appeals of procedural determinations prior to submitting a project permit ((~~application~~)).

(2) The notice of application shall be provided within ((~~fourteen~~)) 14 days after the determination of completeness as provided in RCW 36.70B.070 and, except as limited by the provisions of subsection (4)(b) of this section, ((~~shall~~)) must include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 ((~~or 36.70B.090~~));

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.030(2) and 36.70B.040; and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the notice of application required by subsection (2) of this section and the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

(f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

(g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless an open record predecision hearing is required or an open record appeal hearing is allowed on the project permit decision.

(6) A local government shall integrate the permit procedures in this section with ((~~its~~)) environmental review under chapter 43.21C RCW as follows:

(a) Except for a threshold determination and except as otherwise expressly allowed in this section, the local government may not issue a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(d) A local government is not required to provide for administrative appeals of its threshold determination. If provided, an administrative appeal ((~~shall~~)) must be filed within fourteen days after notice that the determination has been made and is appealable. Except as otherwise expressly provided in this section, the appeal hearing on a threshold determination ((~~of nonsignificance shall~~)) must be consolidated with any open record hearing on the project permit.

(7) At the request of the applicant, a local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency, if:

(a) The hearing is held within the geographic boundary of the local government; and

(b) ((~~The joint hearing can be held within the time periods specified in RCW 36.70B.090 or the~~)) The applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision and of any environmental determination issued at the same time as the project decision, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter 43.21C RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.

NEW SECTION. **Sec. 11.** The department of commerce shall develop a template for counties and cities subject to the requirements in RCW 36.70B.080, which will be utilized for reporting data.

NEW SECTION. **Sec. 12.** The department of commerce shall develop a plan to provide local governments with appropriately trained staff to provide temporary support or hard to find expertise for timely processing of residential housing permit applications. The plan shall include consideration of how local governments can be provided with staff that have experience with providing substitute staff support or that possess expertise in permitting policies and regulations in the local government's geographic area or with jurisdictions of the local government's size or population. The plan and a proposal for implementation shall be presented to the legislature by December 1, 2023.

NEW SECTION. **Sec. 13.** Section 7 of this act takes effect January 1, 2025.

Passed by the Senate April 17, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 339

[Engrossed Substitute Senate Bill 5702]

HIGHER EDUCATION—STUDENTS EXPERIENCING HOMELESSNESS AND FOSTER YOUTH PROGRAM—EXPANSION

AN ACT Relating to expanding the students experiencing homelessness and foster youth pilot program; amending RCW 28B.50.916 and 28B.77.850; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.50.916 and 2021 c 62 s 1 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, ((~~the college board shall select eight college districts, with no less than~~

~~four located outside of the Puget Sound region to participate in a pilot~~)) each community and technical college may implement a program to provide assistance to students experiencing homelessness and to students who were in the foster care system when they graduated high school. The ((~~college districts chosen to participate in the pilot~~)) program must provide certain accommodations to these students that may include, but are not limited to, the following:

(a) Access to laundry facilities;

(b) Access to storage;

(c) Access to locker room and shower facilities;

(d) Reduced-price meals or meal plans, and access to food banks;

(e) Access to technology;

(f) Access to short-term housing or housing assistance, especially during seasonal breaks; and

(g) Case management services.

(2) The ((~~college districts~~)) community and technical colleges may also establish plans to develop surplus property for affordable housing to accommodate the needs of students experiencing homelessness and students who were in the foster care system when they graduated high school.

(3) The ((~~college districts participating in the pilot program~~)) community and technical colleges shall leverage existing community resources by making available to students in the ((~~pilot~~)) program information that is available for individuals experiencing homelessness, including through not-for-profit organizations, the local housing authority, and the department of commerce's office of homeless youth.

(4) The ((~~college districts~~)) community and technical colleges participating in the ((~~pilot~~)) program shall annually provide a joint report to the appropriate committees of the legislature ((~~by~~)) in accordance with RCW 43.01.036 beginning December 1, 2023, that includes at least the following information:

(a) The number of students experiencing homelessness or food insecurity, and the number of students who were in the foster care system when they graduated high school who ((~~were attending~~)) attended a community or technical college during the ((~~pilot~~)) program. The college board shall coordinate with all of the community and technical colleges to collect voluntary data on how many students experiencing homelessness or food insecurity are attending the community and technical colleges;

(b) The number of students assisted by the ((~~pilot~~)) program;

(c) Strategies for accommodating students experiencing homelessness or food insecurity, and former foster care students; and

(d) Legislative recommendations for how students experiencing homelessness or food insecurity, and former foster care students could be better served.

(5) ((~~The college districts not selected to participate in the pilot program are:~~

~~(a) Invited to participate voluntarily; and~~

~~(b) Encouraged to submit the data required of the pilot program participants under subsection (4) of this section, regardless of participation status.~~

~~(6) The pilot program expires July 1, 2024.~~

~~(7) This section expires January 1, 2025~~)) For purposes of this section, "program" means the students experiencing homelessness and foster youth program.

Sec. 2. RCW 28B.77.850 and 2021 c 62 s 2 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, ((~~the council shall select four public four-year institutions of higher education, two on each side of the crest of the Cascade mountain range, to participate in a pilot~~)) each public four-year institution of higher education may implement a program to provide assistance to students experiencing homelessness and to students who were in the foster care system when they graduated high school. The ((~~four-year institutions of higher education chosen to participate in the pilot~~)) program must provide certain accommodations to these students that may include, but are not limited to, the following:

(a) Access to laundry facilities;

(b) Access to storage;

(c) Access to locker room and shower facilities;

(d) Reduced-price meals or meal plans, and access to food banks;

(e) Access to technology;

(f) Access to short-term housing or housing assistance, especially during seasonal breaks; and

(g) Case management services.

(2) The four-year institutions of higher education may also establish plans to develop surplus property for affordable housing to accommodate the needs of students experiencing homelessness and students who were in the foster care system when they graduated high school.

(3) The four-year institutions of higher education participating in the ((~~pilot~~)) program shall leverage existing community resources by making available to students in the ((~~pilot~~)) program information that is available for individuals experiencing homelessness, including through not-for-profit organizations, the local housing authority, and the department of commerce's office of homeless youth.

(4) The four-year institutions of higher education participating in the ((~~pilot~~)) program shall annually provide a joint report to the appropriate committees of the legislature ((~~by~~)) in accordance with RCW 43.01.036 beginning December 1, 2023, that includes at least the following information:

(a) The number of students experiencing homelessness or food insecurity, and the number of students who were in the foster care system when they graduated high school who ((~~were attending~~)) attended a four-year institution of higher education during the ((~~pilot~~)) program. The council shall coordinate with all of the four-year institutions of higher education to collect voluntary data on how many students experiencing homelessness or food insecurity are attending the four-year institutions of higher education;

(b) The number of students assisted by the ((~~pilot~~)) program;

(c) Strategies for accommodating students experiencing homelessness or food insecurity, and former foster care students; and

(d) Legislative recommendations for how students experiencing homelessness or food insecurity, and former foster care students could be better served.

(5) ((~~The four-year institutions of higher education not selected to participate in the pilot program are:~~

~~(a) Invited to participate voluntarily; and~~

~~(b) Encouraged to submit the data required of the pilot program participants under subsection (4) of this section, regardless of participation status.~~

~~(6) The pilot program expires July 1, 2024.~~

~~(7) This section expires January 1, 2025~~)) For purposes of this section, "program" means the students experiencing homelessness and foster youth program.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 19, 2023.
Passed by the House April 5, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 340

[Second Substitute House Bill 1474]

COVENANT HOMEOWNERSHIP PROGRAM

AN ACT Relating to creating the covenant homeownership account and program to address the history of housing discrimination due to racially restrictive real estate covenants in Washington state; amending RCW 36.18.010, 43.84.092, and 43.84.092; reenacting and amending RCW 42.56.270; adding a new section to chapter 36.22 RCW; adding a new chapter to Title 43 RCW; creating new sections; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

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

(a) Generations of systemic, racist, and discriminatory policies and practices have created barriers to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington state. The legislature finds that these policies and practices include redlining, racially restrictive covenants, mortgage subsidies and incentives, and displacement and gentrification.

(b) The state government was both an active and passive participant in this discrimination. For example, the legislature recognizes the role of state courts in facilitating discrimination by property owners; the existence of mandatory recording statutes that required county auditors to record racially restrictive covenants; the passage of the urban renewal law authorizing the designation, regulation, and displacement of certain neighborhoods that were deemed to be blighted; and state funding and regulation of the real estate and banking industries in ways that facilitated or promoted private discrimination. The legislature finds that the specific discriminatory acts and omissions are well documented, including in numerous public and private studies, reports, and other publications.

(c) This discrimination and its impacts continue to exist in the present day. The legislature recognizes that the homeownership rate for black, indigenous, and people of color and other historically marginalized communities in

Washington is 19 percent below that of non-Hispanic white households, and the homeownership rate for black households is even lower. The legislature recognizes that credit, including home mortgages, is harder and more expensive to obtain for black, indigenous, and people of color and other historically marginalized communities in Washington than for non-Hispanic white households. The legislature finds that the imbalance in supply and demand in Washington's housing market has only exacerbated these inequities.

(d) These negative impacts extend beyond homeownership and affect wealth generation, housing security, and other outcomes for black, indigenous, and people of color and other historically marginalized communities in Washington. The legislature finds that these impacts include higher rates of homelessness, rent burdening, substandard or otherwise unhealthy or unsafe housing, and predatory and discriminatory lending practices that lead to further displacement and gentrification.

(e) Existing state and federal programs and other race-neutral approaches are insufficient to remedy that discrimination and its impacts on access to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington. The legislature finds that race-conscious programs, such as the special purpose credit programs authorized by section 6 of this act, are necessary to remedy the past discrimination in which the state was complicit and to remove the structural barriers that persist.

(2) The legislature declares that the state has a compelling interest in remedying past and ongoing discrimination and its impacts on access to credit and homeownership for black, indigenous, and people of color and other historically marginalized communities in Washington.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.22 RCW to read as follows:

(1) Beginning January 1, 2024, except as provided in subsection (2) of this section, the county auditor must collect a covenant homeownership program assessment of $100 for each document recorded, which is in addition to any other charge, surcharge, or assessment allowed by law. The county auditor may retain up to one percent of the moneys for collection of the assessment and must remit the remainder of the moneys to the state treasurer to be deposited in the covenant homeownership account created in section 4 of this act.

(2) The assessment imposed in this section does not apply to: (a) Assignments or substitutions of previously recorded deeds of trust; (b) documents recording a birth, marriage, divorce, or death; (c) any recorded documents otherwise exempted from a recording fee or additional assessments under state law; (d) marriage licenses issued by the county auditor; (e) documents recording a name change order under RCW 4.24.130; or (f) documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of commerce, except as otherwise indicated in section 7 of act.

(2) "Commission" means the Washington state housing finance commission.

(3) "Covenant homeownership program study" means an evidence-based written report prepared by or on behalf of the commission as required in section 5 of this act.

(4) "First-time home buyer" means:

(a) An individual or the individual's spouse who has had no ownership in a principal residence during the three-year period ending on the date of purchase of the property;

(b) A single parent who has only owned a home with a former spouse while married;

(c) An individual who is a displaced homemaker as defined in 24 C.F.R. Sec. 93.2 as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and has only owned a home with a spouse;

(d) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; or

(e) An individual who has only owned a property that is determined by a licensed building inspector as being uninhabitable.

(5) "Oversight committee" means the covenant homeownership program oversight committee established in section 7 of this act.

(6) "Program" means the covenant homeownership program described in section 6 of this act.

(7) "Program participant" means a person who receives down payment and closing cost assistance through a special purpose credit program created by the commission for purposes of the covenant homeownership program.

(8) "Racially restrictive real estate covenant" means a recorded covenant or deed restriction that includes or included racial restrictions on property ownership or use against protected classes that are unlawful under RCW 49.60.224. For example, these unlawful restrictions commonly included exclusions against black, indigenous, and people of color and other historically marginalized communities in Washington state, using terms, many of which are offensive, such as "African blood" meaning all sub-Saharan African ancestries; "Aryan" meaning not Jewish, not eastern or southern European, nor any ancestry except northern European; "Asiatic" meaning all Asian ancestries; Chinese; "colored person" meaning all sub-Saharan African ancestries; "colored races" meaning all nonwhite races; "Ethiopian" meaning all sub-Saharan African ancestries; "gentile" meaning non-Jewish; Hawaiian; "Hebrew" meaning Jewish; "Hindu" meaning all South Asian ancestries; "Indian" meaning Native Americans and also possibly South Asian ancestries; Japanese; "Malay" meaning Filipino; "Mongolian" meaning all East Asian ancestries; "Negro blood" meaning all sub-Saharan African ancestries; "oriental" meaning all Asian ancestries; "Turkish empire" meaning all middle easterners; and "yellow races" meaning all Asian ancestries.

(9) "Special purpose credit program" means a credit assistance program created by the commission as authorized by the federal consumer financial protection bureau under regulation B, 12 C.F.R. 1002.8(a)(1), pursuant to Title VII of the consumer credit protection act (the equal credit opportunity act, 15 U.S.C. Sec. 1691 et seq.) as amended, allowing a creditor to extend special purpose credit to applicants who meet eligibility requirements under a credit

assistance program expressly authorized by state law for the benefit of an economically disadvantaged class of persons.

NEW SECTION. **Sec. 4.** The covenant homeownership account is created in the state treasury. All receipts from the assessment established in section 2 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be made only for the purposes of the program described in section 6 of this act. The legislature may appropriate moneys in the account as follows:

(1) The legislature may appropriate up to one percent of moneys in the account to the department for costs related to the program described in section 6 of this act including, but not limited to, costs related to administering one or more contracts with the commission for purposes of the program, costs related to outreach and stakeholder engagement, costs related to reimbursing the department of financial institutions for its costs related to the oversight committee created in section 7 of this act, and other administrative, data collection, and reporting costs; and

(2) The legislature may appropriate the remainder of the moneys in the account to the department to contract with the commission for the purposes of the program described in section 6 of this act.

NEW SECTION. **Sec. 5.** (1)(a) The commission shall complete, or cause to be completed, an initial covenant homeownership program study. The initial covenant homeownership program study must:

(i) Document past and ongoing discrimination against black, indigenous, and people of color and other historically marginalized communities in Washington state and the impacts of this discrimination on homeownership in the state, including access to credit and other barriers to homeownership in the state;

(ii) Analyze whether and to what extent existing programs and race-neutral approaches have been insufficient to remedy this discrimination and its impacts;

(iii)(A) Recommend and evaluate potential programmatic and policy changes, including creation of one or more special purpose credit programs, to remedy this discrimination and its impacts;

(B) As part of the recommendations related to creation of one or more special purpose credit programs, identify through evidence-based documentation the economically disadvantaged class or classes of persons that require down payment and closing cost assistance in order to reduce racial disparities in homeownership in the state. The class or classes of persons identified in the study may share one or more common characteristics such as, race, national origin, or sex; and

(iv) Identify methodology to evaluate the efficacy of any recommended programmatic and policy changes over time.

(b) By March 1, 2024, and in compliance with RCW 43.01.036, the commission shall submit a copy of the initial covenant homeownership program study to the appropriate committees of the legislature and post a copy of the study to the commission's website.

(2)(a) At least every five years after the initial covenant homeownership program study is completed, the commission shall complete, or cause to be

completed, an updated covenant homeownership program study. The updated covenant homeownership program study must:

(i) Update and reevaluate the findings and recommendations contained in the initial covenant homeownership program study and any subsequent program studies;

(ii) Document the experience of program participants and others impacted by past and ongoing discrimination, including their experience accessing or attempting to access credit and any barriers to homeownership in the state that they have faced or continue to face;

(iii) Evaluate the special purpose credit program or programs' efficacy in providing down payment and closing cost assistance to the economically disadvantaged class or classes of persons identified in the initial covenant homeownership program study and any subsequent program studies, and the special purpose credit program or programs' impacts on remedying discrimination and reducing racial disparities in homeownership in the state; and

(iv) Recommend program modifications and improvements.

(b) By December 31, 2028, and by December 31st every five years thereafter, and in compliance with RCW 43.01.036, the commission shall submit a copy of an updated covenant homeownership program study to the appropriate committees of the legislature and post a copy of the study to the commission's website.

(c) The board of the commission shall review each subsequent covenant homeownership program study and consider the evidence-based documentation and recommendations in designing and implementing program amendments.

NEW SECTION. **Sec. 6.** (1) As part of the covenant homeownership program, the department shall contract with the commission to design, develop, implement, and evaluate one or more special purpose credit programs to reduce racial disparities in homeownership in the state by providing down payment and closing cost assistance. The contract must authorize the commission to use the contract funding as follows:

(a) The contract must authorize the commission to use up to one percent of the contract funding for costs related to administering the program including, but not limited to, costs related to completing a covenant homeownership program study required under section 5 of this act, and other administrative, data collection, and reporting costs;

(b) The contract must authorize the commission to use up to one percent of the contract funding to provide targeted education, homeownership counseling, and outreach about special purpose credit programs created under this section to black, indigenous, and people of color and other historically marginalized communities in Washington state, including outreach to relevant affinity groups for mortgage lenders; and

(c) The contract must authorize the commission to use the remainder of the contract funding to provide down payment and closing cost assistance to program participants. This portion of the contract funding may not be used to provide any type of assistance other than down payment and closing cost assistance.

(2) The commission shall create one or more special purpose credit programs to provide down payment and closing cost assistance for the benefit of one or more economically disadvantaged classes of persons identified in a

covenant homeownership program study under section 5 of this act. In creating a special purpose credit program, the commission must consider the evidence-based documentation and programmatic and policy recommendations set forth in the initial covenant homeownership program study and any subsequent program studies. If the covenant homeownership program study identifies an economically disadvantaged class or classes of persons that share one or more common characteristics such as, race, national origin, or sex and the board of the commission finds it necessary to consider this information in tailoring a special purpose credit program to provide credit assistance to economically disadvantaged classes of persons, the commission may consider these characteristics in designing and implementing the program.

(3) At minimum, a special purpose credit program authorized under this section must:

(a) Provide loans for down payment and closing cost assistance to program participants that can be combined with other forms of down payment and closing cost assistance;

(b) Require a program participant to repay loans for down payment and closing cost assistance at the time that the house is sold; and

(c) Be implemented in conjunction with the commission's housing finance programs.

(4) To be eligible to receive down payment and closing cost assistance through a special purpose credit program authorized under this section, a special purpose credit program applicant must:

(a) Have a household income at or below 100 percent of the area median income;

(b) Be a first-time home buyer; and

(c)(i) Be a Washington state resident who:

(A) Was a Washington state resident on or before the enactment of the federal fair housing act (Title VIII of the civil rights act of 1968; P.L. 90-284; 82 Stat. 73) on April 11, 1968, and was or would have been excluded from homeownership in Washington state by a racially restrictive real estate covenant on or before April 11, 1968; or

(B) Is a descendant of a person who meets the criteria in (c)(i)(A) of this subsection;

(ii) Records that show a person's address on or about a specific date or include a reference indicating that a person is a resident of a specific city or area on or about a specific date may be used to provide proof that a person satisfies the criteria in (c)(i) of this subsection, such as genealogical records, vital records, church records, military records, probate records, public records, census data, newspaper clippings, and other similar documents.

(5) The commission may adopt rules, and shall adopt program policies, as necessary to implement this section. Program rules or policies must include procedures and standards for extending credit under the special purpose credit program, including program eligibility requirements. From time to time, including in response to a covenant homeownership program study's evaluation of program efficacy, the board of the commission may amend the special purpose credit programs, rules, and policies.

(6) By July 1, 2024, one or more of the special purpose credit programs must begin providing down payment and closing cost assistance to program participants.

(7) By December 31, 2025, and by each following December 31st, and in compliance with RCW 43.01.036, the commission shall submit an annual report to the appropriate committees of the legislature on the progress of the special purpose credit program or programs developed under this section. The report shall include, at minimum, the program eligibility requirements, the type and amount of down payment and closing cost assistance provided to program participants, the number of program participants and their corresponding eligibility categories, the location of property financed, and program outreach efforts. The report must be posted on the commission's website.

NEW SECTION. **Sec. 7.** (1) The department of financial institutions shall establish the covenant homeownership program oversight committee consisting of the following members appointed by the governor, except for the legislative members who must be appointed by the president of the senate or the speaker of the house of representatives as described in this section:

(a) One person who meets the eligibility criteria for the special purpose credit program described in section 6(4) of this act and is from east of the crest of the Cascade mountains;

(b) One person who meets the eligibility criteria for the special purpose credit program described in section 6(4) of this act and is from west of the crest of the Cascade mountains;

(c) One representative of an organization that operates a special purpose credit program, counseling service, or debt relief program that serves persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants as defined in section 3 of this act;

(d) One representative of a community-based organization that specializes in the development of permanently affordable housing that serves persons who were commonly subject to unlawful exclusions contained in racially restrictive real estate covenants;

(e) One representative of the real estate sales profession;

(f) One representative of the home mortgage lending profession who has a minimum of five years' lending or underwriting experience;

(g) One representative of the nonprofit affordable housing development industry;

(h) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and

(i) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives.

(2)(a) Nonlegislative members shall each serve a three-year term, subject to renewal for no more than one additional three-year term. The oversight committee shall develop rules that provide for the staggering of terms so that, after the first two years of the committee's existence, the terms of one-third of the nonlegislative members expire each year.

(b) Legislative members shall each serve a two-year term, subject to renewal for no more than one additional two-year term.

(c) On the expiration of the term of each member, the governor, president of the senate, or the speaker of the house of representatives, as authorized under

subsection (1) of this section, shall appoint a successor to serve for a term of two years if the successor is a legislative member, or three years if the successor is a nonlegislative member.

(d) The governor may remove a nonlegislative member of the oversight committee for cause. The president of the senate may remove a senator serving as a legislative member of the oversight committee for cause, and the speaker of the house of representatives may remove a member of the house of representatives serving as a legislative member of the oversight committee for cause.

(e) Vacancies on the oversight committee for any reason must be filled by appointment as authorized under subsection (1) of this section for the duration of the unexpired term.

(3) The oversight committee:

(a) Shall oversee and review the commission's activities and performance related to the program, including the commission's creation and administration of one or more special purpose credit programs authorized in section 6 of this act;

(b) Shall work with the department of financial institutions to convene meetings, create a charter and operating procedures, and to coordinate the oversight committee's ongoing activities;

(c) Shall convene the initial meeting of the oversight committee and select a chair by October 1, 2023;

(d) Shall work with the department of financial institutions to convene a meeting at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the committee;

(e) May conduct its meetings by conference telephone call, videoconference, or using similar technology that enables all persons participating in the meeting to hear each other at the same time; and

(f) May, from time to time, make recommendations to the appropriate committees of the legislature regarding the program.

(4)(a) The oversight committee is a class one group under RCW 43.03.220. Except as provided in (b) of this subsection, members of the committee receive no compensation for their services as members of the committee but may be reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

(b) As authorized by RCW 43.03.220, the department of financial institutions may provide a stipend to individuals who are low income or have lived experience to support their participation on the oversight committee.

(5)(a) The department of commerce and the commission shall work together to supply the oversight committee and the department of financial institutions with any information requested by the oversight committee or the department of financial institutions that the oversight committee or the department of financial institutions deems necessary for the committee to carry out its duties under this section. This information may include, but is not limited to, books, accounts, records, policies, procedures, files, and information from relevant third parties.

(b) Any information shared among the oversight committee, the department of financial institutions, the department of commerce, and the commission that is confidential and exempt from public disclosure under RCW 42.56.270 shall remain confidential when received by the receiving party.

(6) The department of commerce and the commission must report to the oversight committee on a quarterly basis. The report must address the results of targeted education, homeownership counseling, and outreach efforts by the department of commerce as authorized under this chapter, and the results of any special purpose credit program formed by the commission under this chapter, and down payment and closing cost assistance to program participants.

(7)(a) The department of financial institutions shall:

(i) Provide subject matter expertise, administrative assistance, and staff support to the oversight committee; and

(ii) Work in coordination with the department of commerce and the commission to conduct outreach and financial education to the communities served by this chapter, in accordance with RCW 43.320.150.

(b) The department of financial institutions may:

(i) Have one or more staff present at oversight committee meetings;

(ii) Employ staff necessary to carry out the purposes of this section; and

(iii) Hire outside experts and other professionals it deems necessary to carry out its duties under this section.

(8) The department of commerce shall reimburse the department of financial institutions for costs related to the oversight committee from the moneys that the legislature appropriates to the department of commerce for this purpose from the covenant homeownership account under section 4(1) of this act.

Sec. 8. RCW 36.18.010 and 2022 c 141 s 2 are each amended to read as follows:

Except as otherwise ordered by the court pursuant to RCW 4.24.130, county auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~five dollars~~)) $5; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~one dollar~~)) $1. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~three dollars~~)) $3; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~one dollar~~)) $1;

(3) For preparing noncertified copies, for each page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~one dollar~~)) $1;

(4) For administering an oath or taking an affidavit, with or without seal, ((~~two dollars~~)) $2;

(5) For issuing a marriage license, ((~~eight dollars~~)) $8, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional ((~~five dollar~~)) $5 fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the

state general fund plus an additional ((~~ten dollar~~)) $10 fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, ((~~eight dollars~~)) $8;

(7) For recording plats, ((~~fifty~~)) 50 cents for each lot except cemetery plats for which the charge shall be ((~~twenty-five~~)) 25 cents per lot; also ((~~one dollar~~)) $1 for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of ((~~twenty-five dollars~~)) $25 per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~five dollars~~)) $5; for each additional page eight and one-half by ((~~fourteen~~)) 14 inches or less, ((~~one dollar~~)) $1;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, ((~~fifty dollars~~)) $50, in addition to all other applicable recording fees;

(11) For recording instruments, a ((~~three dollar~~)) $3 surcharge to be deposited into the Washington state library operations account created in RCW 43.07.129;

(12) For recording instruments, a ((~~two dollar~~)) $2 surcharge to be deposited into the Washington state library-archives building account created in RCW 43.07.410 until the financing contract entered into by the secretary of state for the Washington state library-archives building is paid in full;

(13) For recording instruments, a surcharge as provided in RCW 36.22.178; ((~~and~~))

(14) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in RCW 36.22.179; and

(15) For recording instruments, except for documents exempt under section 2(2) of this act, an assessment as provided in section 2 of this act.

Sec. 9. RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

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

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management

improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

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

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife

account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University

capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

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

Sec. 10. RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

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

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

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

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the

Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the

rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

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

Sec. 11. RCW 42.56.270 and 2022 c 201 s 2 and 2022 c 16 s 28 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750; (b) highway construction or improvement as required by RCW 47.28.070; or (c) alternative public works contracting procedures as required by RCW 39.10.200 through 39.10.905;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, ((~~and~~)) 43.168, and 43.--- (the new chapter created in section 13 of this act) RCW and RCW 43.155.160, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), cannabis producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(c) Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services to a licensed cannabis business in accordance with RCW 69.50.561;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services or the health care authority for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8);

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business; and

(iii) Financial or proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.31.625 (3)(b) and (4);

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of ((~~sixty~~)) 60 days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70A.500 RCW to implement chapter 70A.500 RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under RCW 43.330.502, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Market share data submitted by a manufacturer under RCW 70A.500.190(4);

(22) Financial information supplied to the department of financial institutions, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities;

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565;

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining, or renewing a license to produce, process, transport, or sell cannabis as allowed under chapter 69.50 RCW;

(25) Cannabis transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access, submitted by an individual or business to the liquor and cannabis board under the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345 for the purpose of cannabis product traceability. Disclosure to local, state, and federal officials is not considered public disclosure for purposes of this section;

(26) Financial and commercial information submitted to or obtained by the retirement board of any city that is responsible for the management of an employees' retirement system pursuant to the authority of chapter 35.39 RCW, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the retirement fund or to result in private loss to the providers of this information except that (a) the names and commitment amounts of the private funds in which retirement funds are invested and (b) the aggregate quarterly performance results for a retirement fund's portfolio of investments in such funds are subject to disclosure;

(27) Proprietary financial, commercial, operations, and technical and research information and data submitted to or obtained by the liquor and cannabis board in applications for cannabis research licenses under RCW 69.50.372, or in reports submitted by cannabis research licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372;

(28) Trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts, entered into by a licensed cannabis business under RCW 69.50.395, which may be submitted to or obtained by the state liquor and cannabis board;

(29) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the Andy Hill cancer research endowment program in applications for, or delivery of, grants under chapter 43.348 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(30) Proprietary information filed with the department of health under chapter 69.48 RCW;

(31) Records filed with the department of ecology under chapter 70A.515 RCW that a court has determined are confidential valuable commercial information under RCW 70A.515.130; and

(32) Unaggregated financial, proprietary, or commercial information submitted to or obtained by the liquor and cannabis board in applications for licenses under RCW 66.24.140 or 66.24.145, or in any reports or remittances submitted by a person licensed under RCW 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis board under chapter 66.08 RCW.

NEW SECTION. **Sec. 12.** This act may be known and cited as the covenant homeownership account and program act.

NEW SECTION. **Sec. 13.** Sections 1 and 3 through 7 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 14.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 15.** (1) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

(2) In addition, if the covenant homeownership program described in section 6 of this act is held invalid, in whole or in part, the legislature may appropriate moneys in the covenant homeownership account to the department of commerce to contract with the Washington state housing finance commission for one or more other programs that support homeownership for first-time home buyers.

NEW SECTION. **Sec. 16.** Section 9 of this act expires July 1, 2024.

NEW SECTION. **Sec. 17.** Section 10 of this act takes effect July 1, 2024.

Passed by the House April 17, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor May 8, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 341

[House Bill 1018]

HOG FUEL—SALES AND USE TAX EXEMPTION—EXTENSION

AN ACT Relating to changing the expiration date for the sales and use tax exemption of hog fuel to comply with the 2045 deadline for fossil fuel-free electrical generation in Washington state and to protect jobs with health care and retirement benefits in economically distressed communities; amending RCW 82.08.956, 82.12.956, and 82.32.605; creating new sections; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** It is the intent of the legislature to retain and grow family wage jobs in rural, economically distressed areas; to promote healthy forests; and to utilize Washington's abundant natural resources to promote diversified renewable energy use in the state.

Sec. 2. RCW 82.08.956 and 2021 c 145 s 11 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of hog fuel used to produce electricity, steam, heat, or biofuel. This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

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

(a) "Hog fuel" means wood waste and other wood residuals including forest derived biomass. "Hog fuel" does not include firewood or wood pellets; and

(b) "Biofuel" means a liquid or gaseous fuel derived from organic matter intended for use as a transportation fuel including, but not limited to, biodiesel, renewable diesel, ethanol, renewable natural gas, and renewable propane.

(3) If a taxpayer who claimed an exemption under this section closes a facility in Washington for which employment positions were reported under RCW 82.32.605, resulting in a loss of jobs located within the state, the department must declare the amount of the tax exemption claimed under this section for the previous two calendar years to be immediately due.

(4) This section expires June 30, ((~~2024~~)) 2034.

Sec. 3. RCW 82.12.956 and 2021 c 145 s 14 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of hog fuel for production of electricity, steam, heat, or biofuel.

(2) For the purposes of this section:

(a) "Hog fuel" has the same meaning as provided in RCW 82.08.956; and

(b) "Biofuel" has the same meaning as provided in RCW 82.08.956.

(3) This section expires June 30, ((~~2024~~)) 2034.

Sec. 4. RCW 82.32.605 and 2017 c 135 s 5 are each amended to read as follows:

(1) Every taxpayer claiming an exemption under RCW 82.08.956 or 82.12.956 must file with the department a complete annual tax performance report under RCW 82.32.534, except that the taxpayer must file a separate tax performance report for each facility owned or operated in the state of Washington.

(2) This section expires June 30, ((~~2024~~)) 2034.

NEW SECTION. **Sec. 5.** (1) This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3, chapter . . ., Laws of 2023 (sections 2 and 3 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to extend the expiration date of these tax preferences in order to increase the ability of beneficiary facilities to provide at least 75 percent of their employees with medical and dental insurance and a retirement plan. For the purposes of this tax preference performance statement, retirement plans may include defined benefit plans, defined contribution plans, or an employee investment plan whereby the employer offers a contribution to the employee plan.

(4) In order to obtain the data necessary to measure the effectiveness of these tax preferences in achieving the public policy objective described in subsection (3) of this section, the joint legislative audit and review committee may refer to:

(a) The annual tax performance report that a taxpayer is required to file with the department of revenue per RCW 82.32.605; and

(b) Employment data available from the employment security department.

Passed by the House March 16, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 342

[Engrossed Substitute House Bill 1050]

PUBLIC WORKS CONTRACTS—APPRENTICESHIP UTILIZATION

AN ACT Relating to expanding apprenticeship utilization requirements; amending RCW 39.04.320; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 39.04.320 and 2018 c 244 s 1 are each amended to read as follows:

(1)(a)(i) Except as provided in (b) through (d) of this subsection, from January 1, 2005, and thereafter, for all public works estimated to cost ((~~one million dollars~~)) $1,000,000 or more, all specifications ((~~shall~~)) must require that no less than ((~~fifteen~~)) 15 percent of the labor hours be performed by apprentices.

(ii) As of the effective date of this section, for all public works contracts awarded by a municipality estimated to cost $2,000,000 or more, all specifications must require that no less than 15 percent of the labor hours be performed by apprentices. For contracts advertised for bid on or after July 1, 2026, for all public works contracts awarded by a municipality estimated to cost $1,500,000 or more, all specifications must require that no less than 15 percent of the labor hours be performed by apprentices. For contracts advertised for bid on or after July 1, 2028, for all public works contracts awarded by a municipality estimated to cost $1,000,000 or more, all specifications must require that no less than 15 percent of the labor hours be performed by apprentices.

(b)((~~(i) This section does not apply to contracts advertised for bid before July 1, 2007, for any public works by the department of transportation.~~

~~(ii) For contracts advertised for bid on or after July 1, 2007, and before July 1, 2008, for all public works by the department of transportation estimated to cost five million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.~~

~~(iii) For contracts advertised for bid on or after July 1, 2008, and before July 1, 2009, for all public works by the department of transportation estimated to cost three million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.~~

~~(iv) For contracts advertised for bid on or after July 1, 2015, and before July 1, 2020, for all public works by the department of transportation estimated to cost three million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.~~

~~(v)~~)) For contracts advertised for bid on or after July 1, 2020, for all public works by the department of transportation estimated to cost ((~~two million dollars~~)) $2,000,000 or more, all specifications ((~~shall~~)) must require that no less than ((~~fifteen~~)) 15 percent of the labor hours be performed by apprentices.

(c)((~~(i) This section does not apply to contracts advertised for bid before January 1, 2008, for any public works by a school district, or to any project funded in whole or in part by bond issues approved before July 1, 2007.~~

~~(ii) For contracts advertised for bid on or after January 1, 2008, for all public works by a school district estimated to cost three million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.~~

~~(iii) For contracts advertised for bid on or after January 1, 2009, for all public works by a school district estimated to cost two million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.~~

~~(iv)~~)) For contracts advertised for bid on or after January 1, 2010, for all public works by a school district estimated to cost ((~~one million dollars~~)) $1,000,000 or more, all specifications ((~~shall~~)) must require that no less than ((~~fifteen~~)) 15 percent of the labor hours be performed by apprentices.

(d)((~~(i) For contracts advertised for bid on or after January 1, 2010, for all public works by a four-year institution of higher education estimated to cost three million dollars or more, all specifications must require that no less than ten percent of the labor hours be performed by apprentices.~~

~~(ii) For contracts advertised for bid on or after January 1, 2011, for all public works by a four-year institution of higher education estimated to cost two~~

~~million dollars or more, all specifications must require that no less than twelve percent of the labor hours be performed by apprentices.~~

~~(iii)~~)) For contracts advertised for bid on or after January 1, 2012, for all public works by a four-year institution of higher education estimated to cost ((~~one million dollars~~)) $1,000,000 or more, all specifications must require that no less than ((~~fifteen~~)) 15 percent of the labor hours be performed by apprentices.

(2) Awarding entities may adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas;

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;

(c) Participating contractors have demonstrated a good faith effort to comply with the requirements of ((~~RCW 39.04.300 and 39.04.310 and~~)) this section; or

(d) Other criteria the awarding entity deems appropriate, which are subject to review by the office of the governor or the municipality's legislative authority if the awarding entity is a municipality.

(3) The secretary of the department of transportation shall adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas; or

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation.

(4)(a) This section applies to public works contracts awarded by the state, to public works contracts awarded by school districts, ((~~and~~)) to public works contracts awarded by state four-year institutions of higher education, and to public works contracts awarded by a municipality. However, this section does not apply to contracts awarded by state agencies headed by a separately elected public official or housing authorities as defined in RCW 35.82.020.

(b) Within existing resources, awarding agencies and municipalities are responsible for monitoring apprenticeship utilization hours by contractor. There must be a specific line item in the contract specifying that apprenticeship utilization goals should be met, monetary incentives for meeting the goals, monetary penalties for not meeting the goals, and an expected cost value to be included in the bid associated with meeting the goals. The awarding agency and municipality must report the apprenticeship utilization by contractor and subcontractor to the supervisor of apprenticeship at the department of labor and industries by final project acceptance. The electronic reporting system that is being developed by the department of labor and industries may be used for either or both monitoring and reporting apprenticeship utilization hours.

(c) In lieu of the monetary penalty and incentive requirements specified in (b) of this subsection, the Washington state department of transportation may use its three strike system for ensuring compliance including the allowance for a good faith effort.

(5)(a) The department of ((~~enterprise services~~)) labor and industries must provide information and technical assistance to affected agencies and

municipalities, and collect the following data from affected agencies and municipalities for each project covered by this section:

(i) The name of each apprentice and apprentice registration number;

(ii) The name of each project;

(iii) The dollar value of each project;

(iv) The date of the contractor's notice to proceed;

(v) The number of apprentices and labor hours worked by them, categorized by trade or craft;

(vi) The number of journey level workers and labor hours worked by them, categorized by trade or craft; and

(vii) The number, type, and rationale for the exceptions granted under subsection (2) of this section.

(b) The department of labor and industries and the municipal research and services center shall provide training, information, and ongoing technical assistance to municipalities in order to comply with apprenticeship utilization requirements. Training must include, but not be limited to, department of labor and industries reporting requirements, contract administration including sample contract language, and best practices on how a municipality's governing authority must adopt apprenticeship guidelines, including procedures, rules, and instructions to ensure compliance relating to a contractor that seeks a good faith waiver of apprenticeship utilization requirements.

(c) The department of labor and industries shall ((~~assist the department of enterprise services in providing~~)) provide information and technical assistance with apprenticeship utilization reporting. The department of enterprise services shall make available sample contract language and provide contract administration advice pertaining to apprenticeship requirements.

(6) The secretary of transportation shall establish an apprenticeship utilization advisory committee, which ((~~shall~~)) must include statewide geographic representation and consist of equal numbers of representatives of contractors and labor. The committee must include at least one member representing contractor businesses with less than ((~~thirty-five~~)) 35 employees. The advisory committee shall meet regularly with the secretary of transportation to discuss implementation of this section by the department of transportation, including development of the process to be used to adjust the requirements of this section for a specific project.

(7) At the request of the senate labor, commerce, research and development committee, the house of representatives commerce and labor committee, or their successor committees, and the governor, the department of enterprise services and the department of labor and industries shall compile and summarize the agency and municipality data and provide a joint report to both committees. The report ((~~shall~~)) must include recommendations on modifications or improvements to the apprentice utilization program and information on skill shortages in each trade or craft.

(8) All contracts subject to this section must include specifications that a contractor or subcontractor may not be required to exceed the apprenticeship utilization requirements of this section.

(9) This section establishes the minimum apprenticeship utilization requirements on public works contracts awarded by a municipality. Any standards or requirements relating to apprenticeship utilization established by

any applicable local law or ordinance that are more favorable to apprentices than the minimum requirements under this section are not affected by this section and those more favorable laws apply and may be enforced as provided by law.

NEW SECTION. **Sec. 2.** (1) It is the intent of the legislature that apprenticeship utilization requirements lead to increased on-the-job training placements for construction apprentices and a growing and diversified pool of labor in Washington. The department of labor and industries must study and report on public works project outcomes related to apprenticeship utilization requirements, access to apprentices, and participation by small, women, minority, and veteran-owned businesses. The study and report must include projects completed between July 1, 2020, and June 30, 2025, as well as projects in progress as of June 30, 2025, for in progress projects that have available data. Municipal projects with a bid due date before July 1, 2024, are not included in the study, except for data provided under (e) of this subsection. At a minimum, the study and report must:

(a) Delineate by project size and type of awarding entity, including the department of transportation, school districts, four-year institutions of higher education, and municipalities. Project data identified in (b) of this subsection for municipalities, if any, must be delineated by type of municipality;

(b) Include total project cost, total labor costs, the ratio of labor costs to total costs, apprentice hours worked by craft and percent of total hours worked, cost savings or increases from utilizing apprentices, number of projects achieving and not achieving apprentice utilization requirements, number of projects waiving apprentice utilization requirements for good faith efforts or other criteria deemed appropriate by the awarding agency with the reasons for the waivers, and the number and percentages of women, minority, and veteran-owned businesses as prime contractors or subcontractors and whether they utilized apprentices;

(c) Include, by craft, the number and service area of construction apprenticeship programs, the number of training agents, and the number of construction apprentices;

(d) Identify the number of small, women, minority, and veteran-owned businesses performing work on public works projects as a prime contractor or subcontractor, and utilization of apprentices on those projects, and provide information on how small, women, minority, and veteran-owned businesses may access apprentices on public works projects and examine any barriers to registered apprenticeship and apprentices. The analysis should include project data and consultation with the office of minority and women's business enterprises and women, minority, and veteran-owned businesses;

(e) Identify and analyze existing applications of apprenticeship utilization requirements by municipalities and for subcontractors beyond requirements specified in RCW 39.04.320;

(f) Include recommendations and best practices for increasing apprenticeship utilization and supporting women, minority, and veteran-owned businesses in accessing apprentices; and

(g) Include recommendations and best practices for extending apprenticeship utilization requirements to subcontractors.

(2) The report must be submitted to the office of financial management, the senate labor and commerce committee, the house labor and workplace standards

committee, the house capital budget committee, the house local government committee, the senate state government and elections committee, and the senate local government, land use, and tribal affairs committee, or their successor committees, no later than December 1, 2025.

(3) This section expires December 1, 2026.

NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1, 2024.

Passed by the House April 20, 2023.
Passed by the Senate April 20, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 343

[Substitute House Bill 1163]

LEASEHOLD EXCISE TAX—EXEMPTION—CERTAIN ARENAS

AN ACT Relating to exempting certain leasehold interests in arenas with a seating capacity of more than 2,000 from the leasehold excise tax; amending RCW 82.29A.130; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) This section is the tax preference performance statement for the tax preference contained in section 2(23), chapter . . ., Laws of 2023 (section 2(23) of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(a) The legislature categorizes the tax preference contained in section 2(23), chapter . . ., Laws of 2023 (section 2(23) of this act) as one intended to induce certain designated behavior by taxpayers and provide tax parity, as indicated in RCW 82.32.808(2) (a) and (f).

(b) For the tax preference evaluation under subsection (2) of this section, the legislature's specific public policy objective is to provide tax parity resulting in leasehold excise tax relief for large arena facilities used for professional sports with the expectation that the operational entities overseeing operations at these facilities will provide substantial economic benefits to their specific region with a focus on: Providing employment opportunities for women and minority-owned businesses; fostering equity and social justice with an emphasis on arena-impacted communities; providing general community resource support; and ensuring quality access to the facilities for people across a range of income levels.

(c) For the tax preference evaluation under subsection (3) of this section, the legislature's specific public policy objectives are to provide tax parity resulting in leasehold excise tax relief with the expectation that employees employed at the facilities receive competitive wages and benefits and the facilities advance and promote diverse and inclusive voices, experiences, perspectives, and employment opportunities.

(2) To measure the effectiveness of the tax preference identified in section 2(23), chapter . . ., Laws of 2023 (section 2(23) of this act), except as provided in

subsection (3) of this section, the joint legislative audit and review committee must evaluate the following:

(a) State and local fiscal impacts;

(b) To the extent data is available from the operating entity, the number of employment positions and wages at the facility for all employers, the degree to which employment positions at the facility have been filled by people residing in economically distressed regions of the county in which the facility is located, and the race and ethnicity of the employees. The evaluation must include a comparison of annual average wages at the facility and annual county average wages as published by the employment security department as part of its covered employment data;

(c) The extent to which the operational entity provides opportunities for patrons of all income levels to enjoy programming by offering seating at a range of price points that are equitably distributed throughout the facility; and

(d) The extent to which the operational entity generally contributes resources to: Organizations that serve the region; the communities surrounding the facility; and programs and services for youth, arts, music, and culture.

(3) To measure the effectiveness of the tax preference in section 2(23), chapter . . ., Laws of 2023 (section 2(23) of this act) for arenas with a seating capacity of 17,000 or less, the joint legislative audit and review committee must evaluate the following to the extent that data is available from the operating entity or public owner of the arena:

(a) State and local fiscal impacts;

(b) The number of employment positions and wages at the facility for all employers operating at the facility. The evaluation must include a comparison of annual average wages at the facility and annual county average wages as published by the employment security department as part of its covered employment data;

(c) The financial stability of the facility through an examination of revenues and expenditures specific to the facility;

(d) The types of programming and events scheduled at the facility; and

(e) The economic impact of the facility in the county in which the facility is located.

(4) In order to obtain the data necessary to perform the reviews in subsections (2) and (3) of this section, the department of revenue must provide tax-related data needed for the joint legislative audit and review committee analysis, including the annual tax performance reports provided pursuant to RCW 82.32.534. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary and the legislative auditor, or his or her designee, may contact operational entities after the effective date of this section to establish appropriate documentation to be provided by the operational entities to the joint legislative audit and review committee to facilitate its review of the tax preferences identified in this act.

(5) For the purpose of this section, "operational entity" means a limited liability company or any other public or private legal entity that is primarily responsible for the management and operation of a stadium or arena facility.

Sec. 2. RCW 82.29A.130 and 2022 c 147 s 1 are each amended to read as follows:

The following leasehold interests are exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility that is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, college or university which leasehold provides housing for students and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions. However, this exemption does not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. However, this exemption applies only where it is determined that contract rent paid is greater than or equal to ((~~ninety~~)) 90 percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)(g).

(8) All leasehold interests for which annual taxable rent is less than ((~~two hundred fifty dollars~~)) $250 per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor are deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than ((~~thirty~~)) 30 days: PROVIDED, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee are deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest is deemed to give use or possession for a period of less than ((~~thirty~~)) 30 days solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

(13) All leasehold interests used to provide organized and supervised recreational activities for persons with disabilities of all ages in a camp facility and for public recreational purposes by a nonprofit organization, association, or corporation that would be exempt from property tax under RCW 84.36.030(1) if it owned the property. If the publicly owned property is used for any taxable purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and 82.29A.040 must be imposed and must be apportioned accordingly.

(14) All leasehold interests in the public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy that is in a county with a population of over ((~~one million~~)) 1,000,000, that has a seating capacity of over ((~~forty thousand~~)) 40,000, and that is constructed on or after January 1, 1995. "Public or entertainment areas" include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include locker rooms or private offices exclusively used by the lessee.

(15) All leasehold interests in the public or entertainment areas of a stadium and exhibition center, as defined in RCW 36.102.010, that is constructed on or after January 1, 1998. For the purposes of this subsection, "public or entertainment areas" has the same meaning as in subsection (14) of this section, and includes exhibition areas.

(16) All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW.

(17) All leasehold interests in property that is: (a) Owned by the United States government or a municipal corporation; (b) listed on any federal or state register of historical sites; and (c) wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(18) All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for ((~~one hundred~~)) 100 percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to

operate and maintain the facility, and the amphitheater has a seating capacity of over ((~~seventeen thousand~~)) 17,000 reserved and general admission seats and is in a county that had a population of over ((~~three hundred fifty thousand~~)) 350,000, but less than ((~~four hundred twenty-five thousand~~)) 425,000 when the amphitheater first opened to the public.

For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

(19) All leasehold interests in real property used for the placement of military housing meeting the requirements of RCW 84.36.665.

(20) All leasehold interests in facilities owned or used by a community college or technical college, which leasehold interest provides:

(a) Food services for students, faculty, and staff;

(b) The operation of a bookstore on campus; or

(c) Maintenance, operational, or administrative services to the community college or technical college.

(21)(a) All leasehold interests in the public or entertainment areas of an arena if it:

(i) Has a seating capacity of more than ((~~two thousand~~)) 2,000;

(ii) Is located on city-owned land; and

(iii) Is owned by a city with a population over ((~~two hundred thousand~~)) 200,000 within a county with a population of less than ((~~one million five hundred thousand~~)) 1,500,000.

(b) For the purposes of this subsection (21), "public or entertainment areas" has the same meaning as provided in subsection (18) of this section.

(22) All leasehold interests in facilities owned by the state parks and recreation commission that are listed on the national register of historic places or the Washington heritage register.

(23)(a) All leasehold interests in the public or entertainment areas of an arena if:

(i) The arena has a seating capacity of more than 4,000;

(ii) The arena is located on city-owned land;

(iii) The arena is located within a city with a population over 100,000; and

(iv) Private entities were responsible for 100 percent of the cost of constructing improvements to the arena, which were not reimbursed by the public owner.

(b) For the purposes of this subsection (23), "public or entertainment areas" has the same meaning as provided in subsection (18) of this section, except that it also includes office areas used predominately by the lessee.

(c) A taxpayer claiming an exemption under this subsection (23) must file a complete annual tax performance report as provided in RCW 82.32.534.

(d) This subsection (23) does not apply to leasehold interests on or after October 1, 2033.

NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act take effect October 1, 2023.

NEW SECTION. **Sec. 4.** Section 2 of this act expires January 1, 2034.

Passed by the House April 20, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 344

[Engrossed Substitute House Bill 1173]

WIND ENERGY FACILITIES—LIGHT POLLUTION

AN ACT Relating to reducing light pollution associated with certain energy infrastructure; amending RCW 43.21B.110; adding a new section to chapter 36.01 RCW; adding a new section to chapter 43.21C RCW; adding a new chapter to Title 70A RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

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

(1) "Aircraft detection lighting system" means a sensor-based system that:

(a) Is designed to detect approaching aircraft;

(b) Automatically activates appropriate obstruction lights until the lights are no longer needed by the aircraft; and

(c) The federal aviation administration has approved as meeting the requirements set forth in chapter 10 of the federal aviation administration's 2020 advisory circular AC 70/7460-1M, "Obstruction marking and lighting."

(2) "Department" means the department of ecology.

(3) "Hub height" means the distance from the ground to the middle of a wind turbine's rotor.

(4) "Light-mitigating technology system" means aircraft detection lighting or another federal aviation administration-approved system capable of reducing the impact of aviation obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a utility-scale wind energy facility.

(5) "Repowering" means a rebuild or refurbishment of a turbine or facility that is required due to the turbine or facility reaching the end of its useful life or useful reasonable economic life. The rebuild or refurbishment does not constitute repowering if it is part of routine major maintenance or the maintenance of or replacement of equipment that does not materially affect the expected physical or economical life of the turbine or facility.

(6) "Utility-scale wind energy facility" means a facility used in the generation of electricity by means of turbines or other devices that capture and employ the kinetic energy of the wind and:

(a) Is required under federal aviation administration regulations, guidelines, circulars, or standards, as they existed as of January 1, 2023, to have obstruction lights; or

(b) Has at least one obstruction light and at least one wind turbine with a hub height of at least 75 feet above ground level.

NEW SECTION. **Sec. 2.** (1) Except as provided in section 3 of this act, beginning July 1, 2023, no new utility-scale wind energy facility with five or more turbines shall commence operations unless the developer, owner, or operator of the facility applies to the federal aviation administration for installation of a light-mitigating technology system that complies with federal aviation administration regulations, as they existed as of the effective date of this section. If approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility shall install the light-mitigating technology system on approved turbines within 24 months after receipt of such approval. If not approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility is not subject to this chapter.

(2) Except as provided in section 3 of this act, beginning January 1, 2028, or upon the completion of repowering, whichever is earlier, any developer, owner, or operator of a utility-scale wind energy facility with five or more turbines that has commenced operations without an aircraft detection lighting system shall apply to the federal aviation administration for installation and operation of a light-mitigating technology system that achieves comparable light mitigation outcomes to an aircraft detection lighting system and that complies with federal aviation administration regulations, as they existed as of the effective date of this section. If approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility shall install the light-mitigating technology system on approved turbines within 24 months following such approval. If not approved by the federal aviation administration, the developer, owner, or operator of such utility-scale wind energy facility is not subject to this chapter.

(3) A developer, owner, or operator of a utility-scale wind energy facility shall comply with any wind energy ordinance adopted by a legislative authority of a county pursuant to section 3 of this act.

(4) Nothing in this section requires mitigation of light pollution to be carried out in a manner that conflicts with federal requirements, including requirements of the federal aviation administration or the United States department of defense.

***NEW SECTION.** Sec. 3. A new section is added to chapter 36.01 RCW to read as follows:*

(1) A legislative authority of any county may adopt a wind energy ordinance that includes specifications for aviation obstruction light-mitigating technology systems. In adopting an ordinance under this section, the county legislative authority shall consider whether affected wind energy facilities have caused, or will cause, light impacts requiring mitigation. Additional criteria related to the selection of light-mitigating technology systems may include the costs associated with the installation of such a system, the economic impact to a developer, owner, or operator of the installation of such a system, conditions under which light mitigation is required, and the type of

system that best serves the public interest of the county. Nothing in this section authorizes a county to deny a permit application for a wind energy facility where the use of a light-mitigating technology system is not allowed by the federal aviation administration, United States department of defense, or if it is determined by the county to be impracticable.

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

****Sec. 3 was vetoed. See message at end of chapter.***

NEW SECTION. **Sec. 4.** (1) A violation of the requirements of this chapter is punishable by a civil penalty of up to $5,000 per day per violation. Penalties are appealable to the pollution control hearings board.

(2)(a) The department may enforce the requirements of this chapter.

(b) Enforcement of this chapter by the department must rely on notification and information exchange between the department and utility-scale wind energy facility owners or operators. The department must prepare and distribute information regarding this chapter to utility-scale wind energy facility owners and operators to help facility owners and operators in their advance planning to meet the deadlines.

(c)(i) If the department obtains information that a facility is not in compliance with the requirements of this chapter, the department may issue a notification letter by certified mail to the facility owner or operator and offer information or other appropriate assistance regarding compliance with this chapter. If compliance is not achieved within 60 days of the issuance of a notification letter under this subsection, the department may assess penalties under this section.

(ii) The department may delay any combination of the issuance of a notification letter under this subsection (2)(c), the 60-day period in which compliance with the requirements of this chapter must be achieved, or the imposition of penalties for good cause shown due to:

(A) Supply chain constraints, including lack of light-mitigating technology system availability;

(B) Lack of contractor availability;

(C) Lighting system permitting delays; or

(D) Technological feasibility considerations.

(3) A utility-scale wind energy facility owner or operator of a facility that has commenced operations prior to January 1, 2023, that applies for the approval of a light-mitigating technology system to the federal aviation administration prior to January 1, 2027, but that has not received a determination to approve the system by the federal aviation administration as of July 1, 2027, may not be assessed a penalty under this chapter until at least 24 months after the federal aviation administration issues its determination on the application of the utility-scale wind energy facility's proposed light-mitigating technology system.

(4) The department may adopt by rule a light mitigation standard that references a more recent version of any federal requirements referenced in section 2 of this act in order to maintain consistency between this chapter and federal aviation administration requirements.

Sec. 5. RCW 43.21B.110 and 2022 c 180 s 812 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 4 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21C RCW to read as follows:

(1) Actions to mitigate light pollution at a utility-scale wind energy facility as required under section 2 of this act, are categorically exempt from the requirements of this chapter.

(2) For the purposes of this section, "utility-scale wind energy facility" has the same meaning as defined in section 1 of this act.

NEW SECTION. **Sec. 7.** Sections 1, 2, and 4 of this act constitute a new chapter in Title 70A RCW.

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

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Sec. 9 was vetoed. See message at end of chapter.

Passed by the House April 14, 2023.

Passed by the Senate April 7, 2023.

Approved by the Governor May 9, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 3 and 9, Engrossed Substitute House Bill No. 1173 entitled:

"AN ACT Relating to reducing light pollution associated with certain energy infrastructure."

This bill generally provides clear requirements for installation of FAA-approved light-mitigation systems on both existing and new wind energy facilities. However, Section 3 adds a confusing layer of direction for local governments by stating that they may adopt ordinances that may include specifications for light-mitigating systems. The provision is confusing because it states such ordinances may contain criteria including "conditions under which light mitigation is required", but the underlying bill makes clear that all wind energy facilities require light mitigation. Additionally, such ordinances could dictate which particular light mitigation system a facility-operator must use and could create a patchwork of different requirements that vary by jurisdiction. The bill delivers clearer and more consistent light-mitigation benefits for communities without Section 3.

Section 9 is an emergency clause. However, the requirements of this bill are not "necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions".

For these reasons I have vetoed Sections 3 and 9 of Engrossed Substitute House Bill No. 1173.

With the exception of Sections 3 and 9, Engrossed Substitute House Bill No. 1173 is approved."

CHAPTER 345

[Engrossed Second Substitute House Bill 1188]

CHILDREN WITH DEVELOPMENTAL DISABILITIES AND RECEIVING CHILD WELFARE SERVICES

AN ACT Relating to individuals with developmental disabilities that have also received child welfare services; amending RCW 43.88C.010, 43.88.058, 71A.24.005, 71A.24.010, and 71A.12.370; adding a new section to chapter 71A.12 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.88C.010 and 2022 c 219 s 2 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of students who are eligible for the Washington college grant program under RCW 28B.92.200 and 28B.92.205 and are expected to attend an institution of higher education as defined in RCW 28B.92.030; and

(d) The number of children who are eligible, as defined in RCW 43.216.505, to participate in, and the number of children actually served by, the early childhood education and assistance program.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) By January 1, 2023, the caseload forecast council shall present the number of individuals who are assessed as eligible for and have requested a service through the individual and family services waiver and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(10) Beginning with the official forecast submitted in November 2022 and subject to the availability of amounts appropriated for this specific purpose, the caseload forecast council shall forecast the number of individuals who are assessed as eligible for and have requested supported living services, a service through the core waiver, an individual and family services waiver, and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(11) As a courtesy, beginning with the official forecast submitted in November 2022, the caseload forecast council shall forecast the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration.

(12) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

(13) The caseload forecast council shall forecast the number of youth expected to receive behavioral rehabilitation services while involved in the foster care system and the number of screened in reports of child abuse or neglect.

(14) The caseload forecast council shall forecast the number of individuals who are functionally and financially eligible for medicaid waiver services administered by the developmental disabilities administration who also meet the criteria outlined in RCW 71A.12.370 and are expected to utilize a medicaid waiver service.

(15) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

((~~(15)~~)) (16) During the 2021-2023 fiscal biennium, and beginning with the November 2021 forecast, the caseload forecast council shall produce an unofficial forecast of the long-term caseload for juvenile rehabilitation as a courtesy.

Sec. 2. RCW 43.88.058 and 2021 c 334 s 1904 are each amended to read as follows:

For the purposes of this chapter, expenditures for the following ((~~foster care, adoption support and related services, and child protective~~)) services must be forecasted and budgeted as maintenance level costs:

(1) Behavioral rehabilitation services placements;

(2) Social worker and related staff to receive, refer, and respond to screened-in reports of child abuse or neglect((~~, except in fiscal year 2021~~));

(3) Court-ordered parent-child and sibling visitations delivered by contractors; ((~~and~~))

(4) Those activities currently being treated as maintenance level costs for budgeting or forecasting purposes on June 7, 2018, including, but not limited to: (a) Adoption support and other adoption-related expenses; (b) foster care maintenance payments; (c) child-placing agency management fees; (d) support goods such as clothing vouchers; (e) child aides; and (f) child care for children in foster or relative placements when the caregiver is at work or in school; and

(5) Developmental disability waiver slots that are anticipated to be utilized by individuals eligible for a medicaid waiver service under RCW 71A.12.370.

Sec. 3. RCW 71A.24.005 and 2009 c 194 s 1 are each amended to read as follows:

(1) The legislature recognizes that the number of children who have developmental disabilities along with intense behaviors is increasing, and more families are seeking out-of-home placement for their children.

(2) The legislature intends to create services and to develop supports for these children, family members, and others involved in the children's lives to avoid disruption to families ((~~and eliminate~~)), help prevent the need for out-of-home placement, and supplement the child welfare services a child may be receiving from the department of children, youth, and families.

(3) The legislature directs the department to maintain a federal waiver through which services may be provided to allow children with developmental disabilities and intense behaviors to maintain permanent and stable familial relationships. The legislature intends for these services to be locally based and offered as early as possible to avoid family disruption and out-of-home

placement, but also offered to children in out-of-home placement when necessary.

Sec. 4. RCW 71A.24.010 and 2009 c 194 s 2 are each amended to read as follows:

(1) To the extent funding is appropriated for this purpose, intensive behavior support services may be provided by the department, directly or by contract, to children who have developmental disabilities and intense behaviors and to their families.

(2) The department shall be the lead administrative agency for children's intensive behavior support services and shall:

(a) Collaborate with appropriate parties to develop and implement the intensive in-home support services program within the division of developmental disabilities;

(b) Use best practices and evidence-based practices;

(c) Provide coordination and planning for the implementation and expansion of intensive in-home services;

(d) Contract for the provision of intensive in-home and planned out-of-home services;

(e) Monitor and evaluate services to determine whether the program meets standards identified in the service contracts;

(f) Collect data regarding the number of families served, and costs and outcomes of the program;

(g) Adopt appropriate rules to implement the program;

(h) License out-of-home respite placements on a timely basis; and

(i) Maintain an appropriate staff-to-client ratio.

(3) A child may receive intensive behavior support services when the department has determined that:

(a) The child is under the age of twenty-one;

(b) The child has a developmental disability and has been determined eligible for these services;

(c) The child/family acuity scores are high enough in the assessment conducted by the division of developmental disabilities to indicate the child's behavior puts the child or family at significant risk or is very likely to require an out-of-home placement;

(d) The child meets eligibility for the home and community-based care waiver;

(e) The child resides in his or her family home or is ((~~temporarily~~)) in an out-of-home placement ((~~with a plan to return home~~)); and

(f) The family agrees to participate in the program and complete the care and support steps outlined in the completed individual support plan((~~; and~~

~~(g) The family is not subject to an unresolved child protective services referral~~)).

NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.12 RCW to read as follows:

(1) No later than January 1, 2024, the department shall submit to the federal government a request for approval to modify eligibility requirements for the services provided through a medicaid waiver administered by the department to include eligible individuals as specified in RCW 71A.12.370. To the extent

consistent with federal law and federal funding requirements, the department shall provide services to eligible individuals as specified in RCW 71A.12.370 through a medicaid waiver administered by the department beginning no later than December 1, 2024.

(2)(a) The legislature recognizes that children and youth with developmental disabilities who are subject to a dependency have unique support needs. To this end, the legislature intends to explore establishing a new medicaid waiver for this population.

(b) By December 1, 2025, the department shall submit a report to the governor and the appropriate committees of the legislature on the feasibility of establishing a new medicaid waiver tailored to meet the needs of dependent children and youth with developmental disabilities who are age 20 or younger and who meet the criteria identified in RCW 71A.12.370(1) and cannot be adequately served through one of the five medicaid waivers administered by the department as of the effective date of this section. The services provided in this waiver shall supplement, and not supplant, the child welfare services and supports a child or youth is entitled to or receives under Title IV-E of the social security act from the department of children, youth, and families, and may not duplicate services or supports available through other funding sources. The report must include:

(i) A comprehensive list and description of the services anticipated to be included in the new waiver and the associated costs by each age group;

(ii) Information on approaches taken by other states to serve children and youth in dependencies with developmental disabilities; and

(iii) Information on the outcome of services being provided under the amended waivers referenced in subsection (1) of this section.

(3) The department shall be the lead administrative agency for the waiver design for dependent children and youth and shall collaborate with the department of children, youth, and families and other relevant stakeholders to identify the services and supports currently provided to dependent children and youth and identify services and supports that will supplement supports already provided. The department of children, youth, and families shall provide to the department all information and data that is necessary for the department to determine eligibility for services, to provide appropriate and timely services and supports to qualifying children and youth, to implement and maintain compliance with federal funding requirements, and to complete design of the new waiver.

Sec. 6. RCW 71A.12.370 and 2021 c 56 s 4 are each amended to read as follows:

((~~When there is funded capacity for services~~)) (1) Services provided through a medicaid waiver administered by the department, ((~~and~~)) to the extent consistent with federal law and federal funding requirements, ((~~priority for that waiver~~)) shall be provided to eligible individuals who ((~~exited~~)) meet the following criteria on or after the effective date of this section:

(a)(i) Are subject to a dependency;

(ii) Are receiving extended foster care services as defined in RCW 74.13.020; or

(iii) Exited a dependency ((~~proceeding under chapter 13.34 RCW within the last two years~~)) or discontinued extended foster care services as defined in RCW 74.13.020; and

(b) Will begin receiving waiver services prior to the individual's 25th birthday.

(2) Persons meeting the criteria in subsection (1) of this section who are receiving services under the children's intensive behavioral support services waiver under RCW 71A.24.010 must be immediately transferred to a different waiver without a break in waiver coverage when, based on their age, they no longer qualify for the waiver under which they have been receiving services.

(3) For purposes of this section, a "dependency" includes both a dependency under chapter 13.34 RCW and circumstances in which an Indian child is in the custody of a federally recognized Indian tribe as defined in RCW 43.376.010 or the tribe's placing agency.

NEW SECTION. **Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 17, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 346

[House Bill 1221]

LOTTERY PLAYERS—PUBLIC RECORDS ACT EXEMPTION

AN ACT Relating to the privacy of lottery players; and amending RCW 42.56.230.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.56.230 and 2021 c 89 s 1 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of children, youth, and families;

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs;

(iii) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name as the child or if the family member or guardian resides at the same address as the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a)(i) and (ii) of this subsection; or

(iv) For substitute caregivers who are licensed or approved to provide overnight care of children by the department of children, youth, and families.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in (c) of this subsection (7) and this subsection (7)(d) that is subject to public disclosure;

(8) All information related to individual claim resolution settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals. The board of industrial insurance appeals shall provide to the department of labor and industries copies of all final claim resolution settlement agreements;

(9) Voluntarily submitted information contained in a database that is part of or associated with enhanced 911 emergency communications systems, or information contained or used in emergency notification systems as provided under RCW 38.52.575 and 38.52.577;

(10) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots;

(11) All information submitted by a person to the state, either directly or through a state-licensed gambling establishment, or Indian tribes, or tribal enterprises that own gambling operations or facilities with class III gaming compacts, as part of the self-exclusion program established in RCW 9.46.071 or 67.70.040 for people with a gambling problem or gambling disorder; ((~~and~~))

(12) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under RCW 43.43.920; and

(13) All personal and financial information concerning a player that is received or maintained by the state lottery or any contracted lottery vendor except the player's name and city or town of residence. Additional information may be released only in accordance with prior written permission from the player.

Passed by the House February 28, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 347

[House Bill 1257]

CARGO AND PASSENGER PORTS—COORDINATION WITH OTHER PORTS

AN ACT Relating to the authority of cargo and passenger ports; adding a new section to chapter 53.08 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) Washington state ports were created to preserve public ownership of public resources, giving local governments the ability and statutory authority to support economic development for the public benefit.

(2) The legislature finds and declares that Washington public port districts that carry out or seek to carry out operations involving the movement of cargo or passengers are a vital part of the economy and trade infrastructure within the state.

(3) The legislature further finds that there is an important public purpose for qualified cargo and passenger ports to coordinate, reach agreement on, and implement all actions under their authority with other qualified cargo and passenger ports. The legislature intends by this act to grant qualified cargo and passenger ports with the authority to operate in furtherance of this public purpose, including the specified powers granted in this act relating to cargo and passenger transportation, without liability under federal antitrust laws.

(4) The legislature further intends to restore parity between qualified cargo and passenger ports and the marine carrier industry. The marine carrier industry can create an exemption from federal antitrust law liability and with this act the legislature intends to allow the same protection to the qualified cargo and passenger ports they serve.

NEW SECTION. **Sec. 2.** A new section is added to chapter 53.08 RCW to read as follows:

(1) For the purpose of this section, "qualified cargo and passenger port" means a Washington public port district that: (a) Provides or seeks to provide wharfage, dock, warehouse, or other marine terminal facilities to marine carriers; and (b) participates in a meeting of other cargo and passenger ports where discussion of wharfage, dockage, warehouse, and other issues affecting marine terminal facilities are held under an agreement filed with the federal maritime commission under 46 U.S.C. Sec. 40301(b) and 40302(a).

(2) Qualified cargo and passenger ports have the power to coordinate, reach agreement on, and implement all actions under their authority with other qualified cargo and passenger ports. This includes the power to meet with qualified cargo and passenger ports and other port authorities to discuss and agree on issues of mutual interest relating to maritime operations, including:

(a) Rates and charges to be assessed at the qualified cargo and passenger ports;

(b) Rules, practices, and procedures relating to cargo and passenger service operations;

(c) Matters concerning the planning, development, management, marketing, operation, and use of their facilities; and

(d) Any other matters relating to cargo and passenger service operations.

(3) This section expires 10 years after the effective date of this section.

Passed by the House April 18, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 348

[Substitute House Bill 1258]

STATEWIDE TOURISM MARKETING ACCOUNT—MATCHING FUNDS RATIO

AN ACT Relating to increasing tourism to Washington state through enhancement of the statewide tourism marketing account and changing necessary match requirements; and amending RCW 43.384.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.384.040 and 2018 c 275 s 5 are each amended to read as follows:

The statewide tourism marketing account is created in the state treasury. All receipts from tax revenues under RCW 82.08.225 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenditures of the department that are related to implementation of a statewide tourism marketing program and operation of the authority. A ((~~two-to-one~~)) one-to-one nonstate or

state fund, other than general fund state, match must be provided for all expenditures from the account. A match may consist of nonstate or state fund, other than general fund state, cash contributions deposited in the private local account created under RCW 43.384.020(4), the value of an advertising equivalency contribution, or an in-kind contribution. The board must determine criteria for what qualifies as an in-kind contribution.

Passed by the House April 20, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 349

[House Bill 1308]

HIGH SCHOOL GRADUATION PATHWAY OPTIONS—VARIOUS PROVISIONS

AN ACT Relating to high school graduation pathway options; amending RCW 28A.655.250 and 28A.655.260; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) In 2019 the legislature created a system of multiple graduation pathway options, which took effect beginning with the class of 2020. The legislature intended for the graduation pathways to be student-focused, adaptable, rigorous, and meaningful ways for students to demonstrate appropriate readiness in support of their individualized career and college goals.

(2) The legislature anticipated that school districts might face barriers to implementing the pathways and students might face barriers to accessing the pathway options. The legislature charged the state board of education with research on the first three years of implementation to identify barriers and provide recommendations for changes to the existing pathways and additional pathway options.

(3) While implementation of the graduation pathway options was significantly disrupted by the COVID-19 pandemic, the research on early implementation identified access and equity barriers that would exist even without the pandemic. The research shows that the initial set of graduation pathway options do not meet the needs of all students. The research found some students completing pathways that do not align with their individual goals for after high school, in which case the pathway is not serving its intended purpose. Overall, students, families, and educators report a need for additional relevant and authentic options.

(4) The legislature recognizes that students can demonstrate readiness in multiple ways and recognizes the need to expand graduation pathways in order to provide options that are student-focused, individualized, relevant, and that support all student needs. Research shows that performance-based assessments are valid ways of measuring students' readiness for success in college and careers. Further, research shows that performance-based assessments are associated with increased student engagement, skill development, critical thinking, and postsecondary success. The legislature recognizes that a performance-based graduation pathway option supports the state's transition to mastery-based learning.

(5) Therefore, the legislature intends to create graduation pathway options that allow students to demonstrate their readiness in performance-based ways, in addition to the existing test-based and course-based options. Further, the legislature intends to create ongoing requirements to monitor the graduation pathway options implementation at both the state and local levels to ensure accountability and equitable offerings. In providing a wider variety of graduation pathway options, the state maintains its commitment to high standards for earning a meaningful high school diploma that prepares students for success in postsecondary education, gainful employment, civic engagement, and lifelong learning.

Sec. 2. RCW 28A.655.250 and 2021 c 7 s 3 are each amended to read as follows:

(1)(a) Beginning with the class of 2020, except as provided in RCW 28A.230.320, graduation from a public high school and the earning of a high school diploma must include the following:

(i) Satisfying the graduation requirements established by the state board of education under RCW 28A.230.090 and any graduation requirements established by the applicable public high school or school district;

(ii) Satisfying credit requirements for graduation;

(iii) Demonstrating career and college readiness through completion of the high school and beyond plan as required by RCW 28A.230.090; and

(iv) Meeting the requirements of at least one graduation pathway option established in this section.

(b) Successful completion of the components in (a) of this subsection together signals a student's readiness to graduate with a meaningful high school diploma that fulfills the diploma purpose established in RCW 28A.230.090.

(2) The pathway options established in this section are intended to provide a student with multiple ((~~pathways to graduating with a meaningful high school diploma that are tailored to the goals of the student~~)) ways, including test-based, course-based, and performance-based options, to demonstrate readiness in furtherance of the student's individual goals for high school and beyond. For the purposes of this section, "demonstrate readiness" means the student meets or exceeds state learning standards addressed in the pathway option. A student may choose to pursue one or more of the pathway options under (((~~(b)~~))) subsection (3) of this ((~~subsection~~)) section, but any pathway option used by a student to demonstrate career and college readiness must be in alignment with the student's high school and beyond plan.

(((~~(b)~~))) (3) The following graduation pathway options may be used to demonstrate career and college readiness in accordance with (((~~(a)(iv)~~))) subsection (1)(a)(iv) of this ((~~subsection~~)) section:

(((~~(i)~~))) (a) Meet or exceed the graduation standard established by the state board of education under RCW 28A.305.130 on the statewide high school assessments in English language arts and mathematics as provided for under RCW 28A.655.070;

(((~~(ii)~~))) (b) Complete and qualify for college credit in dual credit courses in English language arts and mathematics. For the purposes of this subsection, "dual credit course" means a course in which a student qualifies for college and high school credit in English language arts or mathematics upon successfully completing the course;

(((~~(iii)~~))) (c) Earn high school credit in a high school transition course in English language arts and mathematics, an example of which includes a bridge to college course. For the purposes of this subsection (((~~(1)(b)(iii)~~))) (3)(c), "high school transition course" means an English language arts or mathematics course offered in high school where successful completion by a high school student ensures the student college-level placement at participating institutions of higher education as defined in RCW 28B.10.016. High school transition courses must satisfy core or elective credit graduation requirements established by the state board of education. A student's successful completion of a high school transition course does not entitle the student to be admitted to an institution of higher education as defined in RCW 28B.10.016;

(((~~(iv)~~))) (d) Earn high school credit, with a C+ grade((~~, or receiving a three or higher on the AP exam, or equivalent,~~)) or higher in AP, international baccalaureate, or Cambridge international courses in English language arts and mathematics; or ((~~receiving a four or higher on international baccalaureate exams. For English language arts, successfully completing any of the following courses meets the standard: AP English language and composition literature, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics; or any of the international baccalaureate individuals and societies courses. For mathematics, successfully completing any of the following courses meets the standard: AP statistics, computer science, computer science principles, or calculus; or any of the international baccalaureate mathematics courses~~)) earn at least the minimum scores outlined in RCW 28B.10.054(1) on the corresponding exams. The state board of education shall establish by rule the list of AP, international baccalaureate, and Cambridge international courses of which successful completion meets the standard in this subsection for English language arts and for mathematics;

(((~~(v)~~))) (e) Meet or exceed the scores established by the state board of education for the mathematics portion and the reading, English, or writing portion of the SAT or ACT;

(((~~(vi)~~))) (f)(i) Complete a performance-based learning experience through which the student demonstrates knowledge and skills in a real-world context, providing evidence that the student meets or exceeds state learning standards in English language arts and mathematics. The performance-based learning experience may take a variety of forms, such as a project, practicum, work-related experience, community service, or cultural activity, and may result in a variety of products that can be evaluated, such as a performance, presentation, portfolio, report, film, or exhibit.

(ii) The performance-based learning experience must conform to state requirements established in rule by the state board of education addressing the safety and quality of the performance-based learning experience and the authentic performance-based assessment criteria for determining the student has demonstrated the applicable learning standards. The rules adopted by the state board of education may allow external parties, including community leaders and professionals, to participate in the evaluation of the student's performance and must include at least one certificated teacher with an endorsement in each relevant subject area or with other applicable qualifications as permitted by the professional educator standards board.

(iii) To support implementation of the performance-based learning experience graduation pathway option, the state board of education, in collaboration with the office of the superintendent of public instruction, shall establish graduation proficiency targets and associated rubrics aligned with state learning standards in English language arts and mathematics.

(iv) Prior to offering the performance-based learning experience graduation pathway option in this subsection (3)(f) to students, the school district board of directors shall adopt a written policy in conformity with applicable state requirements;

(g) Meet any combination of at least one English language arts option and at least one mathematics option established in (((~~(b)(i) through (v)~~))) (a) through (f) of this subsection (((~~(1)~~)));

(((~~(vii)~~))) (h) Meet standard in the armed services vocational aptitude battery; and

(((~~(viii)~~))) (i) Complete a sequence of career and technical education courses that are relevant to a student's postsecondary pathway, including those leading to workforce entry, state or nationally approved apprenticeships, or postsecondary education, and that meet either: The curriculum requirements of core plus programs for aerospace, maritime, health care, information technology, or construction and manufacturing; or the minimum criteria identified in RCW 28A.700.030. Nothing in this subsection (((~~(1)(b)(viii)~~))) (3)(i) requires a student to enroll in a preparatory course that is approved under RCW 28A.700.030 for the purposes of demonstrating career and college readiness under this section.

(((~~(2)~~))) (4) While the legislature encourages school districts to make all pathway options established in this section available to their high school students, and to expand their pathway options until that goal is met, school districts have discretion in determining which pathway options under this section they will offer to students.

(((~~(3)~~))) School districts, however, must annually provide students in grades eight through 12 and their parents or legal guardians with comprehensive information about the graduation pathway options offered by the school district and are strongly encouraged to begin providing this information beginning in sixth grade. School districts must provide this information in a manner that conforms with the school district's language access policy and procedures as required under RCW 28A.183.040.

(5) The state board of education shall adopt rules to implement the graduation pathway options established in this section.

Sec. 3. RCW 28A.655.260 and 2021 c 144 s 3 are each amended to read as follows:

(1) The superintendent of public instruction shall collect the following information from school districts: Which of the graduation pathways under RCW 28A.655.250 are available to students at each of the school districts; and the number of students using each graduation pathway for graduation purposes. This information shall be reported annually to the education committees of the legislature beginning January 10, 2021. To the extent feasible, data on student participation in each of the graduation pathways shall be disaggregated by race, ethnicity, gender, and receipt of free or reduced-price lunch.

(2) ((~~Beginning August 1, 2019, the state board of education shall survey interested parties regarding what additional graduation pathways should be~~

~~added to the existing graduation pathways identified in RCW 28A.655.250 and whether modifications should be made to any of the existing pathways. Interested parties shall include at a minimum: High school students; recent high school graduates; representatives from the state board for community and technical colleges and four-year higher education institutions; representatives from the apprenticeship and training council; associations representing business; members of the educational opportunity gap oversight and accountability committee; and associations representing educators, school board members, school administrators, superintendents, and parents. The state board of education shall provide reports to the education committees of the legislature by August 1, 2020, and December 10, 2022, summarizing the information collected in the surveys.~~

~~(3) Using the data reported by the superintendent of public instruction under subsection (1) of this section, the state board of education shall survey a sampling of the school districts unable to provide all of the graduation pathways under RCW 28A.655.250 in order to identify the types of barriers to implementation school districts have. Using the survey results from this subsection and the survey results collected under subsection (2) of this section, the state board of education shall review the existing graduation pathways, suggested changes to those graduation pathways, and the options for additional graduation pathways, and shall provide a report to the education committees of the legislature by December 10, 2022, on the following:~~

~~(a) Recommendations on whether changes to the existing pathways should be made and what those changes should be;~~

~~(b) The barriers school districts have to offering all of the graduation pathways and recommendations for ways to eliminate or reduce those barriers for school districts;~~

~~(c) Whether all students have equitable access to all of the graduation pathways and, if not, recommendations for reducing the barriers students may have to accessing all of the graduation pathways; and~~

~~(d) Whether additional graduation pathways should be included and recommendations for what those pathways should be~~)) The state board of education shall review and monitor the implementation of the graduation pathway options to ensure school district compliance with requirements established under RCW 28A.655.250 and subsection (3) of this section. The reviews and monitoring required by this subsection may be conducted concurrently with other oversight and monitoring conducted by the state board of education. The information shall be collected annually and reported to the education committees of the legislature by January 10, 2025, and biennially thereafter.

(3)(a) At least annually, school districts shall examine data on student groups participating in and completing each graduation pathway option offered by the school district. At a minimum, the data on graduation pathway participation and completion must be disaggregated by the student groups described in RCW 28A.300.042 (1) and (3), and by:

(i) Gender;

(ii) Students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW;

(iii) Students who are experiencing homelessness as defined in RCW 28A.300.542(4); and

(iv) Multilingual/English learners.

(b) If the results of the analysis required under (a) of this subsection show disproportionate participation and completion rates by student groups, then the school district shall identify reasons for the observed disproportionality and implement strategies as appropriate to ensure the graduation pathway options are equitably available to all students in the school district.

Passed by the House April 19, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 350

[Second Substitute House Bill 1316]

RUNNING START PROGRAM—VARIOUS PROVISIONS

AN ACT Relating to expanding access to dual credit programs; amending RCW 28A.600.390 and 28A.600.400; reenacting and amending RCW 28A.600.310; adding a new section to chapter 28A.600 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) Students participating in running start programs may be funded up to a combined maximum enrollment of 1.4 full-time equivalents, including school district and institution of higher education enrollment.

(2) In calculating the combined full-time equivalents, the office of the superintendent of public instruction:

(a) Must adopt rules to fund the participating student's enrollment in running start courses provided by the institution of higher education during the summer academic term, up to a maximum of 10 college credits per student per summer academic term; and

(b) May average the participating student's September through June enrollment to account for differences in the start and end dates for courses provided by the high school and the institution of higher education.

(3) Running start programs as a service delivery model and associated funding levels beyond 1.0 full-time equivalent per student are not part of the state's statutory program of basic education under chapter 28A.150 RCW.

(4) The office of the superintendent of public instruction, in consultation with the state board for community and technical colleges, the participating institutions of higher education, the student achievement council, and the education data center, must annually track, and report to the fiscal committees of the legislature, the combined full-time equivalent experience of students participating in running start programs, including course load analyses and enrollments by high school and participating institutions of higher education.

Sec. 2. RCW 28A.600.310 and 2019 c 252 s 115 and 2019 c 176 s 2 are each reenacted and amended to read as follows:

(1) Every school district must allow eligible students as described in subsection (2) of this section to participate in the running start program.

(2) Student eligibility for the running start program is as follows:

(((~~(a)~~))) Eleventh and ((~~twelfth~~)) 12th grade students or students who have not yet received the credits required for the award of a high school diploma and are eligible to be in the ((~~eleventh~~)) 11th or ((~~twelfth~~)) 12th grade((~~s~~)), including students receiving home-based instruction under chapter 28A.200 RCW and students attending private schools approved under chapter 28A.195 RCW, may apply to a participating institution of higher education to enroll in courses or programs offered by the institution of higher education.

(((~~(b) The course sections and programs offered as running start courses must also be open for registration to matriculated students at the participating institution of higher education and may not be a course consisting solely of high school students offered at a high school campus.~~

~~(c) A student~~)) (3) Students receiving home-based instruction under chapter 28A.200 RCW enrolling in a public high school for the sole purpose of participating in courses or programs offered by institutions of higher education shall not be counted by the school district in any required state or federal accountability reporting if the student's parents or guardians filed a declaration of intent to provide home-based instruction and the student received home-based instruction during the school year before the school year in which the student intends to participate in courses or programs offered by the institution of higher education. ((~~Students receiving home-based instruction under chapter 28A.200 RCW and students attending private schools approved under chapter 28A.195 RCW shall not be required to meet the student learning goals or to learn the state learning standards. However, students are eligible to enroll in courses or programs in participating universities only if the board of directors of the student's school district has decided to participate in the program.~~))

(4) Participating institutions of higher education, in consultation with school districts, may establish admission standards for ((~~these~~)) eligible students. If the institution of higher education accepts a secondary school ((~~pupil~~)) student for enrollment under this section, the institution of higher education shall send written notice to the ((~~pupil~~)) student and the ((~~pupil's~~)) student's school district within ((~~ten~~)) 10 days of acceptance. The notice shall indicate the course and hours of enrollment for that ((~~pupil~~)) student.

(((~~(2)~~))) (5) The course sections and programs offered as running start courses must be open for registration to matriculated students at the participating institution of higher education and may not be a course consisting solely of high school students offered at a high school campus.

(6)(a) In lieu of tuition and fees, as defined in RCW 28B.15.020 and 28B.15.041:

(i) Running start students shall pay to the community or technical college all other mandatory fees as established by each community or technical college and, in addition, the state board for community and technical colleges may authorize a fee of up to ((~~ten~~)) 10 percent of tuition and fees as defined in RCW 28B.15.020 and 28B.15.041; and

(ii) All other institutions of higher education operating a running start program may charge running start students a fee of up to ((~~ten~~)) 10 percent of

tuition and fees as defined in RCW 28B.15.020 and 28B.15.041 in addition to technology fees.

(b) The fees charged under this subsection (((~~(2)~~))) (6) shall be prorated based on credit load.

(c) Students may pay fees under this subsection (6) with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.

(((~~(3)~~))) (7)(a) The institutions of higher education must make available fee waivers for low-income running start students. A student shall be considered low income and eligible for a fee waiver upon proof that the student ((~~is currently qualified to receive~~)) meets federal eligibility requirements for free or reduced-price ((~~lunch~~)) school meals. Acceptable documentation of low-income status may also include, but is not limited to, documentation that a student has been deemed eligible for free or reduced-price lunches in the last five years, or other criteria established in the institution's policy.

(b)(i) By the beginning of the 2020-21 school year, school districts, upon knowledge of a low-income student's enrollment in running start, must provide documentation of the student's low-income status, under (a) of this subsection, directly to institutions of higher education.

(ii) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction, in consultation with the Washington student achievement council, shall develop a centralized process for school districts to provide students' low-income status to institutions of higher education to meet the requirements of (b)(i) of this subsection.

(c) Institutions of higher education, in collaboration with relevant student associations, shall aim to have students who can benefit from fee waivers take advantage of these waivers. Institutions shall make every effort to communicate to students and their families the benefits of the waivers and provide assistance to students and their families on how to apply. Information about waivers shall, to the greatest extent possible, be incorporated into financial aid counseling, admission information, and individual billing statements. Institutions also shall, to the greatest extent possible, use all means of communication, including but not limited to websites, online catalogues, admission and registration forms, mass email messaging, social media, and outside marketing to ensure that information about waivers is visible, compelling, and reaches the maximum number of students and families that can benefit.

(((~~(4)~~))) (8) The ((~~pupil's~~)) student's school district shall transmit to the institution of higher education an amount per each full-time equivalent college student at statewide uniform rates for vocational and nonvocational students. The superintendent of public instruction shall separately calculate and allocate moneys appropriated for basic education under RCW 28A.150.260 to school districts for purposes of making such payments and for granting school districts seven percent thereof to offset program related costs. The calculations and allocations shall be based upon the estimated statewide annual average per full-time equivalent high school student allocations under RCW 28A.150.260, excluding small high school enhancements, and applicable rules adopted under chapter 34.05 RCW. The superintendent of public instruction, participating institutions of higher education, and the state board for community and technical colleges shall consult on the calculation and distribution of the funds. The funds

received by the institution of higher education from the school district shall not be deemed tuition or operating fees and may be retained by the institution of higher education. A student enrolled under this subsection shall be counted for the purpose of meeting enrollment targets in accordance with terms and conditions specified in the omnibus appropriations act.

(9) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020 and applies to charter schools established under chapter 28A.710 RCW and state-tribal education compact schools established under chapter 28A.715 RCW to the same extent as it applies to school districts.

Sec. 3. RCW 28A.600.390 and 2012 c 229 s 506 are each amended to read as follows:

The superintendent of public instruction, the state board for community and technical colleges, and the student achievement council shall jointly develop and adopt rules governing RCW 28A.600.300 through 28A.600.380 and section 1 of this act, if rules are necessary. The rules shall be written to encourage the maximum use of the program and shall not narrow or limit the enrollment options under RCW 28A.600.300 through 28A.600.380.

Sec. 4. RCW 28A.600.400 and 1994 c 205 s 11 are each amended to read as follows:

RCW 28A.600.300 through 28A.600.390 are in addition to and not intended to adversely affect agreements between school districts and institutions of higher education in effect on April 11, 1990((~~, and in the future~~)).

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 17, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 351

[Second Substitute House Bill 1425]

MUNICIPAL ANNEXATIONS—SALES AND USE TAX

AN ACT Relating to facilitating municipal annexations; and amending RCW 35.13.470 and 82.14.415.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.13.470 and 2003 c 299 s 1 are each amended to read as follows:

(1) The legislative body of a county, city, or town planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process for unincorporated territory by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between a county and any city or town within the county. The territory proposed for annexation must meet the following criteria: (a) Be within the city or town urban growth area designated under RCW 36.70A.110, and (b) at least ((~~sixty~~)) 60 percent of the boundaries of the territory proposed for

annexation must be contiguous to the annexing city or town or one or more cities or towns.

(2) If the territory proposed for annexation has been designated in an adopted county comprehensive plan as part of an urban growth area, urban service area, or potential annexation area for a specific city or town, or if the urban growth area territory proposed for annexation has been designated in a written agreement between a city or town and a county for annexation to a specific city or town, the designation or designations shall receive full consideration before a city or county may initiate the annexation process provided for in RCW 35.13.480.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) If an interlocal agreement under this section is used for a sales and use tax under RCW 82.14.415, the agreement under this section must address the following:

(a) Balancing of annexations of commercial, industrial, and residential properties so that any potential loss or gain is considered and distributed fairly as determined by tax revenue;

(b) Development, ownership, and maintenance of infrastructure; and

(c) The potential for revenue-sharing agreements.

(5) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation of the territory described in the agreement. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any territory to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be fewer than ((~~forty-five~~)) 45 days after adoption of the ordinance.

Sec. 2. RCW 82.14.415 and 2016 c 5 s 1 are each amended to read as follows:

(1) The legislative authority of any city ((~~that is located in a county with a population greater than six hundred thousand~~)) that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the city. The tax may only be imposed by a city if:

(a) ((~~The city has commenced annexation of an area having a population of at least ten thousand people, or four thousand in the case of a city described under subsection (3)(a)(i) of this section, prior to January 1, 2015; and~~

~~(b)~~)) The city legislative authority determines by resolution or ordinance that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the annexation area on an annual basis; and

(b) The city, as provided in RCW 35A.14.472, 35A.14.296, or 35.13.470, has entered into an interlocal agreement with the county regarding the proposed annexation area.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the city at no cost to the city and must remit the tax to the city as provided in RCW 82.14.060.

(3)((~~(a) Except as provided in (b) of this subsection, the~~)) The maximum rate of tax any city may impose under this section is:

((~~(i)~~)) (a) 0.1 percent for each annexed area in which the population is greater than ((~~ten thousand~~)) 2,000 and less than ((~~twenty thousand. The ten thousand population threshold in this subsection (3)(a)(i) is four thousand for a city with a population between one hundred fifteen thousand and one hundred forty thousand and located within a county with a population over one million five hundred thousand~~)) 10,000; and

((~~(ii)~~)) (b) 0.2 percent for an annexed area in which the population is greater than ((~~twenty thousand~~)) 10,000.

((~~(b) Beginning July 1, 2011, the maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than sixteen thousand if the annexed area was, prior to November 1, 2008, officially designated as a potential annexation area by more than one city, one of which has a population greater than four hundred thousand.~~))

(4)((~~(a) Except as provided in (b) of this subsection, the~~)) The maximum cumulative rate of tax a city may impose under subsection (3)((~~(a)~~)) of this section is 0.2 percent for the total number of annexed areas the city may annex.

((~~(b) The maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.3 percent, beginning July 1, 2011, if the city commenced annexation of an area, prior to January 1, 2010, that would have otherwise allowed the city to increase the rate of tax imposed under this section absent the rate limit imposed in (a) of this subsection.~~

~~(c) The maximum cumulative rate of tax a city may impose under subsection (3)(b) of this section is 0.85 percent for the single annexed area the city may annex and the amount of tax distributed to a city under subsection (3)(b) of this section may not exceed seven million seven hundred twenty-five thousand dollars per fiscal year.~~))

(5)((~~(a) Except as provided in (b) of this subsection, the~~)) The tax imposed by this section may only be imposed at the beginning of a fiscal year and may continue for no more than ((~~ten~~)) 10 years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas are effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (9) of this section.

((~~(b) The tax imposed under subsection (3)(b) of this section may only be imposed at the beginning of a fiscal year and may continue for no more than six years from the date that each increment of the tax is first imposed.~~))

(6) All revenue collected under this section may be used solely to provide, maintain, and operate municipal services for the annexation area.

(7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city must notify the department and the tax distributions authorized in this section must be suspended for the remainder of the year.

(8) No tax may be imposed under this section before July 1, ((~~2007~~)) 2023. Before imposing a tax under this section, the legislative authority of a city must adopt an ordinance that includes the following:

(a) A certification that the amount needed to provide municipal services to the annexed area reflects the city's true and actual costs;

(b) The rate of tax under this section that is imposed within the city; and

(c) The threshold amount for the first fiscal year following the annexation and passage of the ordinance.

(9) The tax must cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city must provide the department with a certification of the city's true and actual costs to provide municipal services to the annexed area, a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section must begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount belongs to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, may not be carried forward to the next fiscal year.

(10) ((~~The tax must cease to be distributed to a city imposing the tax under subsection (3)(b) of this section for the remainder of the fiscal year, if the total distributions to the city imposing the tax exceed seven million seven hundred twenty-five thousand dollars for the fiscal year. A city may not impose tax under subsection (3)(b) of this section unless the annexation is approved by a vote of the people residing within the annexed area. A city may not impose tax under subsection (3)(b) of this section if it provides sewer service in the annexed area.~~

~~(11)~~)) The resident population of the annexation area must be determined in accordance with chapter 35.13 or 35A.14 RCW.

((~~(12)~~)) (11) A city may not begin to impose the tax authorized by this section after July 1, 2028.

(12) The following definitions apply throughout this section unless the context clearly requires otherwise:

(a) "Annexation area" means an area that has been annexed to a city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all territory described in the city resolution.

(b) "Commenced annexation" means the initiation of annexation proceedings has taken place under the direct petition method or the election method under chapter 35.13 or 35A.14 RCW.

(c) "Department" means the department of revenue.

(d) "Municipal services" means those services customarily provided to the public by city government.

(e) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(f) "Potential annexation area" means one or more geographic areas that a city has officially designated for potential future annexation, as part of its comprehensive plan adoption process under the state growth management act, chapter 36.70A RCW.

(g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (7) of this section that the department must distribute to the city generated from the tax imposed under this section in a fiscal year.

Passed by the House March 3, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 352

[Substitute House Bill 1500]

COTTAGE FOOD OPERATIONS—CAP ON ANNUAL GROSS SALES AND PERMIT DURATION

AN ACT Relating to increasing the cap on gross sales for cottage food operations; amending RCW 69.22.050 and 69.22.030; and adding a new section to chapter 69.22 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 69.22.050 and 2015 c 196 s 1 are each amended to read as follows:

(1) ((~~The~~)) (a) Except as provided in (b) of this subsection, the annual gross sales of cottage food products may not exceed ((~~twenty-five thousand dollars~~)) $35,000. The determination of the maximum annual gross sales must be computed on the basis of the amount of gross sales within or at a particular domestic residence and may not be computed on a per person basis within or at an individual domestic residence.

(b) Every four years, the department shall review the cap on annual gross sales established in (a) of this subsection and increase the cap by expedited rule making, in accordance with RCW 34.05.353, based on that year's average consumer price index 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.

(2) If gross sales exceed the maximum allowable annual gross sales amount established under subsection (1) of this section, the cottage food operation must

either obtain a food processing plant license under chapter 69.07 RCW or cease operations.

(3) A cottage food operation exceeding the maximum allowable annual gross sales amount established under subsection (1) of this section is not entitled to a full or partial refund of any fees paid under RCW 69.22.030 or 69.22.040.

(4) The director may request in writing documentation to verify the annual gross sales figure.

Sec. 2. RCW 69.22.030 and 2011 c 281 s 3 are each amended to read as follows:

(1) All cottage food operations must be permitted ((~~annually~~)) every two years by the department on forms developed by the department. All permits and permit renewals must be made on forms developed by the director and be accompanied by an inspection fee as provided in RCW 69.22.040, a ((~~seventy-five dollar~~)) $75 public health review fee, and a ((~~thirty dollar~~)) $30 processing fee. All fees must be deposited into the food processing inspection account created in RCW 69.07.120.

(2) In addition to the provision of any information required by the director on forms developed under subsection (1) of this section and the payment of all fees, an applicant for a permit or a permit renewal as a cottage food operation must also provide documentation that all individuals to be involved in the preparation of cottage ((~~foods [cottage food products]~~)) food products have secured a food and beverage service worker's permit under chapter 69.06 RCW.

(3) All cottage food operations permitted under this section must include a signed document attesting, by opting to become permitted, that the permitted cottage food operation expressly grants to the director the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspections under this chapter.

***NEW SECTION.** Sec. 3. A new section is added to chapter 69.22 RCW to read as follows:*

The department shall maintain sufficient full-time equivalent staff to ensure timely processing of permits required under this chapter and provide improved service levels to cottage food operations.

Sec. 3 was vetoed. See message at end of chapter.

Passed by the House April 13, 2023.

Passed by the Senate March 22, 2023.

Approved by the Governor May 9, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, Substitute House Bill No. 1500 entitled:

"AN ACT Relating to increasing the cap on gross sales for cottage food operations."

This bill revitalizes the cottage food program and ensures that the annual gross sales cap is maintained with inflationary adjustments. Cottage food products are important for Washingtonians, and I applaud the merits of these updates.

Section 3 requires that sufficient full-time equivalent staff are maintained to ensure timely processing of permits and to provide improved service levels. One additional full-time staff position was funded in the final budget for this purpose, which satisfies the current state of "sufficient" support. However, requiring the maintenance of sufficient staff regardless of funding puts the Department of Agriculture at risk of needing to reduce higher priorities if appropriations are reduced in future biennia.

For these reasons I have vetoed Section 3 of Substitute House Bill No. 1500.

With the exception of Section 3, Substitute House Bill No. 1500 is approved."

CHAPTER 353

[Engrossed Substitute House Bill 1503]

HEALTH PROFESSIONALS—LICENSURE INFORMATION COLLECTION

AN ACT Relating to the collection of health care professionals' information at the time of license application and license renewal; and adding a new section to chapter 18.130 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.130 RCW to read as follows:

(1) All applicants who submit applications for licensure on or after January 1, 2025, shall provide the following information with their application:

(a) Race;

(b) Ethnicity;

(c) Gender;

(d) Languages spoken;

(e) Provider specialty, where applicable;

(f) Primary practice location, if known at the time of application; and

(g) Secondary practice location, if applicable and if known at the time of application.

(2) All license holders shall provide the following information when they renew their licenses on or after January 1, 2025, in addition to any other information required by the relevant disciplining authority:

(a) The information in subsection (1)(a) through (e) of this section, except, after license holders provide this information one time, they shall be required to provide only changes to this information with subsequent renewals;

(b) Whether the licensee is currently practicing;

(c) Primary practice location at the time of renewal; and

(d) Secondary practice location at the time of renewal, if applicable.

(3) The form used to collect information under this section must include the same race and ethnicity categories and subgroups required for the collection of student-level data in RCW 28A.300.042 (1) and (3).

(4) The department shall not sell the information collected pursuant to subsection (1) or (2) of this section to any third party.

(5) Applicants and licensees subject to demographic and practice information provision requirements under chapters 18.71, 18.71A, and 18.71B RCW are exempt from the requirements of this section.

Passed by the House April 13, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 354

[House Bill 1527]

LOCAL TAX INCREMENT FINANCING PROGRAM—MODIFICATION

AN ACT Relating to making technical corrections to the local tax increment financing program under chapter 39.114 RCW by applying the definition of real property to ensure private investments made on state and local government-owned land are included in the increment value, ensuring that the relocation and construction of a government-owned facility is included as an eligible project, ensuring that acquisition costs include appurtenant rights, providing clarification to definitions of increment value and tax allocation base value for consistency with current law, clarifying notice requirements for the creation of a tax increment area, and creating consistency with current law for add-on levies codified in RCW 84.55.010; amending RCW 39.114.010, 39.114.020, 39.114.040, 39.114.050, 84.55.020, and 84.55.030; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 39.114.010 and 2021 c 207 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) "Assessed value of real property" means the valuation of taxable real property as placed on the last completed assessment roll prepared pursuant to Title 84 RCW.

(2) "Increment area" means the geographic area within which regular property tax revenues are to be apportioned to pay public improvement costs, as authorized under this chapter.

(3) "Increment value" means 100 percent of any increase in the true and fair value of real property in an increment area that is placed on the tax rolls after the increment area ((~~is created~~)) takes effect. The increment value shall not be less than zero.

(4) "Local government" means any city, town, county, port district, or any combination thereof.

(5) "Ordinance" means any appropriate method of taking legislative action by a local government, including a resolution adopted by a port district organized under Title 53 RCW.

(6) "Public improvement costs" means the costs of:

(a) Design, planning, acquisition, required permitting, required environmental studies and mitigation, seismic studies or surveys, archaeological studies or surveys, land surveying, site acquisition, including appurtenant rights and site preparation, construction, reconstruction, rehabilitation, improvement, expansion, and installation of public improvements, and other directly related costs;

(b) Relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including capitalized interest for up to six months following completion of construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary debt service reserves;

(e) Expenses incurred in revaluing real property for the purpose of determining the tax allocation base value by a county assessor under chapter 84.41 RCW and expenses incurred by a county treasurer under chapter 84.56 RCW in apportioning the taxes and complying with this chapter and other applicable law. For purposes of this subsection (6)(e), "expenses incurred" means actual staff and software costs directly related to the implementation and ongoing administration of increment areas under this chapter; and

(f) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of tax increment financing to fund the costs of the public improvements.

(7) "Public improvements" means:

(a) Infrastructure improvements owned by a state or local government within or outside of and serving the increment area ((~~that include~~)) and real property owned or acquired by a local government within the increment area including:

(i) Street and road construction;

(ii) Water and sewer system construction, expansion, and improvements;

(iii) Sidewalks and other nonmotorized transportation improvements and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities or other transit facilities;

(vi) Park and community facilities and recreational areas;

(vii) Stormwater and drainage management systems;

(viii) Electric, broadband, or rail service;

(ix) Mitigation of brownfields; or

(b) Expenditures for any of the following purposes:

(i) Purchasing, rehabilitating, retrofitting for energy efficiency, and constructing housing for the purpose of creating or preserving long-term affordable housing;

(ii) Purchasing, rehabilitating, retrofitting for energy efficiency, and constructing child care facilities serving children and youth that are low-income, homeless, or in foster care;

(iii) Providing maintenance and security for the public improvements; ((~~or~~))

(iv) Historic preservation activities authorized under RCW 35.21.395; or

(v) Relocation and construction of a government-owned facility, with written permission from the agency owning the facility and the office of financial management.

(8) "Real property" means:

(a) Real property as defined in RCW 84.04.090; and

(b) Privately owned or used improvements located on publicly owned land that are subject to property taxation or leasehold excise tax.

(9) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by port districts or public utility districts to the extent necessary for the payments of principal and interest on general obligation debt; and (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065. Regular property taxes do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW

84.52.043. "Regular property taxes" does not include excess property taxes levied by local school districts.

((~~(9)~~)) (10) "Tax allocation base value" means the assessed value of real property located within an increment area for taxes imposed in the year in which the increment area ((~~is first designated~~)) takes effect.

((~~(10)~~)) (11) "Tax allocation revenues" means those revenues derived from the imposition of regular property taxes on the increment value.

((~~(11)~~)) (12) "Taxing district" means a governmental entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved increment area.

Sec. 2. RCW 39.114.020 and 2021 c 207 s 2 are each amended to read as follows:

(1) A local government may designate an increment area under this chapter and use the tax allocation revenues to pay public improvement costs, subject to the following conditions:

(a) The local government must adopt an ordinance designating an increment area within its boundaries and describing the public improvements proposed to be paid for, or financed with, tax allocation revenues;

(b) The local government may not designate increment area boundaries such that the entirety of its territory falls within an increment area;

(c) The increment area may not have an assessed valuation of more than $200,000,000 or more than 20 percent of the sponsoring jurisdiction's total assessed valuation, whichever is less, when the ordinance is passed. If a sponsoring jurisdiction creates two increment areas, the total combined assessed valuation in both of the two increment areas may not equal more than $200,000,000 or more than 20 percent of the sponsoring jurisdiction's total assessed valuation, whichever is less, when the ordinances are passed creating the increment areas;

(d) A local government can create no more than two active increment areas at any given time and they may not physically overlap by including the same land in more than one increment area at any time;

(e) The ordinance must set a sunset date for the increment area, which may be no more than 25 years after the first year in which tax allocation revenues are collected from the increment area;

(f) The ordinance must identify the public improvements to be financed and indicate whether the local government intends to issue bonds or other obligations, payable in whole or in part, from tax allocation revenues to finance the public improvement costs, and must estimate the maximum amount of obligations contemplated;

(g) The ordinance must provide that the increment area takes effect on June 1st following the adoption of the ordinance in (a) of this subsection;

(h) The sponsoring jurisdiction may not add additional public improvements to the project after adoption of the ordinance creating the increment area or change the boundaries of the increment area. The sponsoring jurisdiction may expand, alter, or add to the original public improvements when doing so is necessary to assure the originally approved improvements can be constructed or operated;

(i) The ordinance must impose a deadline by which commencement of construction of the public improvements shall begin, which deadline must be at

least five years into the future and for which extensions shall be made available for good cause; and

(j) The local government must make a finding that:

(i) The public improvements proposed to be paid or financed with tax allocation revenues are expected to encourage private development within the increment area and to increase the assessed value of real property within the increment area;

(ii) Private development that is anticipated to occur within the increment area as a result of the proposed public improvements will be permitted consistent with the permitting jurisdiction's applicable zoning and development standards;

(iii) The private development would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future without the proposed public improvements; and

(iv) The increased assessed value within the increment area that could reasonably be expected to occur without the proposed public improvements would be less than the increase in the assessed value estimated to result from the proposed development with the proposed public improvements.

(2) In considering whether to designate an increment area, the legislative body of the local government must prepare a project analysis that shall include, but need not be limited to, the following:

(a) A statement of objectives of the local government for the designated increment area;

(b) A statement as to the property within the increment area, if any, that the local government may intend to acquire;

(c) The duration of the increment area;

(d) Identification of all parcels to be included in the area;

(e) A description of the expected private development within the increment area, including a comparison of scenarios with the proposed public improvements and without the proposed public improvements;

(f) A description of the public improvements, estimated public improvement costs, and the estimated amount of bonds or other obligations expected to be issued to finance the public improvement costs and repaid with tax allocation revenues;

(g) The assessed value of real property listed on the tax roll as certified by the county assessor under RCW 84.52.080 from within the increment area and an estimate of the increment value and tax allocation revenues expected to be generated;

(h) An estimate of the job creation reasonably expected to result from the public improvements and the private development expected to occur in the increment area; and

(i) An assessment of any impacts and any necessary mitigation to address the impacts identified on the following:

(i) Affordable and low-income housing;

(ii) The local business community;

(iii) The local school districts; and

(iv) The local fire service.

(3) The local government may charge a private developer, who agrees to participate in creating the increment area, a fee sufficient to cover the cost of the project analysis and establishing the increment area, including staff time,

professionals and consultants, and other administrative costs related to establishing the increment area.

(4) Nothing in this section prohibits a local government from entering into an agreement under chapter 39.34 RCW with another local government for the administration or other activities related to tax increment financing authorized under this section.

(5) If the project analysis indicates that an increment area will impact at least 20 percent of the assessed value in a fire protection district or regional fire protection service authority, or the fire service agency's annual report demonstrates an increase in the level of service directly related to the increment area, the local government must negotiate a mitigation plan with the fire protection district or regional fire protection service authority to address level of service issues in the increment area.

(6) The local government may reimburse the assessor and treasurer for their costs as provided in RCW 39.114.010(6)(e).

(7) Prior to the adoption of an ordinance authorizing creation of an increment area, the local government must:

(a) Hold at least two public briefings for the community solely on the tax increment project that include the description of the increment area, the public improvements proposed to be financed with the tax allocation revenues, and a detailed estimate of tax revenues for the participating local governments and taxing districts, including the amounts allocated to the increment public improvements. The briefings must be announced at least two weeks prior to the date being held, including publishing in a legal newspaper of general circulation and posting information on the local government website and all local government social media sites; and

(b) Submit the project analysis to the office of the treasurer for review and consider any comments that the treasurer may provide upon completion of their review of the project analysis as provided under this subsection. The treasurer must complete the review within 90 days of receipt of the project analysis and may consult with other agencies and outside experts as necessary. Upon completing their review, the treasurer must promptly provide to the local government any comments regarding suggested revisions or enhancements to the project analysis that the treasurer deems appropriate based on the requirements in subsection (2) of this section.

Sec. 3. RCW 39.114.040 and 2021 c 207 s 4 are each amended to read as follows:

The local government designating the increment area must:

(1) Publish notice in a legal newspaper of general circulation within the jurisdiction of the local government at least two weeks before the date on which the ordinance authorizing creation of an increment area is adopted that describes the public improvements, describes the boundaries of the increment area, and identifies the location and times where the ordinance and other public information concerning the public improvement may be inspected; and

(2) Deliver a certified copy of the adopted ordinance to the county treasurer, the county assessor, and the governing body of each taxing district within which the increment area is located at the respective addresses specified pursuant to RCW 42.56.040 within 10 days of the date on which the ordinance was adopted.

Sec. 4. RCW 39.114.050 and 2021 c 207 s 5 are each amended to read as follows:

Apportionment of taxes shall be as follows:

(1) Commencing in the calendar year immediately following the ((~~passage of the ordinance~~)) calendar year in which the increment area takes effect in accordance with RCW 39.114.020, the county treasurer shall distribute receipts from regular property taxes imposed on real property located in the increment area as follows:

(a) Each taxing district shall receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the tax allocation base value for that increment area;

(b) The local government that designated the increment area shall be entitled to receive an additional amount equal to the amount derived from the regular property taxes levied by or for each taxing district upon the increment value within the increment area. The local government that designated the increment area shall receive no more than is needed to pay or repay costs directly associated with the public improvements identified in the approved ordinance and may agree to receive less than the full amount of this portion, as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the taxing districts that imposed regular property taxes, or have regular property taxes imposed for them, in the increment area for collection that year in proportion to their regular tax levy rates for collection that year. The local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by tax increment financing; and

(c) This section shall not apply to any receipts from the regular property taxes levied by:

(i) The state for the support of the common schools under RCW 84.52.065;

(ii) Local school district excess levies; and

(iii) Port districts or public utility districts specifically for the purpose of making required payments of principal and interest or general indebtedness.

(2) The apportionment of tax allocation revenues must cease when the taxing district certifies to the county assessor in writing that tax allocation revenues are no longer necessary or obligated to pay public improvement costs, but in no event shall the apportionment of tax allocation revenues continue beyond the sunset date established pursuant to RCW 39.114.020(1)(e). Any excess tax allocation revenues and earnings on the tax allocation revenues remaining at the time the apportionment of tax receipts terminates must be returned to the county treasurer and distributed to the taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the increment area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(3) The apportionment and distribution of portions of the regular property taxes levied by or for each taxing district upon the increment value within the increment area pursuant to and subject to the requirements of this chapter is declared to be a public purpose of and benefit each such taxing district.

(4) The apportionment and distribution of portions of the regular property taxes levied by or for each taxing district upon the increment value within the increment area pursuant to this section shall not affect or be deemed to affect the rate of taxes levied by or within any such taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

(5)(a) For a local government having a designated increment area under this chapter as of the effective date of this section, the county assessor must adjust the tax allocation base value for that increment area to include the assessed value of any privately owned improvements located on publicly owned land for taxes imposed in the year in which the increment area was first designated. However, no adjustment is required if the increment area does not include any privately owned improvements located on publicly owned land subject to property taxation as of the date the increment area became effective.

(b) The adjusted tax allocation base value under this subsection (5) does not impact any apportionment and distribution under this section occurring in calendar years before calendar year 2024.

Sec. 5. RCW 84.55.020 and 2014 c 4 s 3 are each amended to read as follows:

Notwithstanding the limitation set forth in RCW 84.55.010, the first levy for a taxing district created from consolidation of similar taxing districts must be set so that the regular property taxes payable in the following year do not exceed the limit factor multiplied by the sum of the amount of regular property taxes lawfully levied for each component taxing district in the highest of the three most recent years in which such taxes were levied for such district plus the additional dollar amount calculated by multiplying the regular property tax rate of each component district for the preceding year by the increase in assessed value in each component district resulting from:

(1) New construction;

(2) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(3) Improvements to property; ((~~and~~))

(4) Any increase in the assessed value of state-assessed property; and

(5) Any increase in the assessed value of real property, as defined in RCW 39.114.010, within an increment area as designated by any local government under RCW 39.114.020 if the increase is not included elsewhere under this section. This subsection does not apply to levies by the state or by port districts and public utility districts for the purpose of making required payments of principal and interest on general indebtedness.

Sec. 6. RCW 84.55.030 and 2014 c 4 s 4 are each amended to read as follows:

For the first levy for a taxing district following annexation of additional property, the limitation set forth in RCW 84.55.010 must be increased by an amount equal to the aggregate assessed valuation of the newly annexed property as shown by the current completed and balanced tax rolls of the county or

counties within which such property lies, multiplied by the dollar rate that would have been used by the annexing unit in the absence of such annexation, plus the additional dollar amount calculated by multiplying the regular property tax levy rate of that annexing taxing district for the preceding year by the increase in assessed value in the annexing district resulting from:

(1) New construction;

(2) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(3) Improvements to property; ((~~and~~))

(4) Any increase in the assessed value of state-assessed property; and

(5) Any increase in the assessed value of real property, as defined in RCW 39.114.010, within an increment area as designated by any local government in RCW 39.114.020 if the increase is not included elsewhere under this section. This subsection does not apply to levies by the state or by port districts or public utility districts for the purpose of making required payments of principal and interest on general indebtedness.

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 14, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 355

[Substitute House Bill 1711]

TELECOMMUNICATIONS PROJECTS—SALES AND USE TAX EXEMPTION—CERTAIN TRIBES

AN ACT Relating to providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe; adding new sections to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; providing expiration dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the requirements of this section, the tax levied by RCW 82.08.020 does not apply to sales of, or charges made for:

(a) Labor and services rendered in respect to the construction of a qualified infrastructure project, or the installation of any equipment or tangible personal property incorporated into a qualified infrastructure project; and

(b) Building materials, telecommunications equipment, and tangible personal property incorporated into a qualified infrastructure project.

(2) The exemption provided in subsection (1) of this section does not apply to local sales taxes.

(3)(a) In order to obtain an exemption certificate under this section, a qualified infrastructure project owner must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department, to determine that the qualified infrastructure project owner qualifies for the exemption under this section. The department must issue an exemption certificate to a qualified infrastructure project owner.

(b) In order to claim an exemption under this section, a qualified infrastructure project owner must provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(c) The exemption certificate is effective on the date the application is received by the department, which is the date of issuance. The exemption provided in this section does not apply to any property or services that are received by the qualified infrastructure project owner, or its agent, before the effective date of this section or on or after January 1, 2030. For the purpose of this subsection (3)(c), "received" means:

(i) Taking physical possession of, or having dominion and control over, the tangible personal property eligible for the exemption in subsection (1)(b) of this section; and

(ii) The labor and services in subsection (1)(a) of this section have been performed.

(d) The exemption certificate expires on the date the project is certified as operationally complete by the qualified infrastructure project owner or January 1, 2030, whichever is first. The qualified infrastructure project owner must notify the department, in a form and manner as required by the department, when the project is certified as operationally complete.

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

(a) "Local sales tax" means a sales tax imposed by a local government under the authority of chapter 82.14 or 81.104 RCW.

(b) "Operationally complete" means the qualified infrastructure project is capable of being used for its intended purpose as described in the exemption certificate application.

(c) "Qualified infrastructure project" means the construction of buildings and utilities related to the deployment of a modern global internet and telecommunications infrastructure that occurs in part in a distressed area, as defined in RCW 43.168.020, that is located on the coast of Washington. The infrastructure may include, but is not limited to, cable landing stations, communications hubs, buried utility connections and extension, and any related equipment and buildings that will add broadband capacity and infrastructure to the area.

(d) "Qualified infrastructure project owner" means a wholly owned subsidiary of a federally recognized tribe located in a county that borders the Pacific Ocean that is developing a qualified infrastructure project.

(5) The total amount of state sales and use tax exempted under this section and section 2 of this act may not exceed $8,000,000. A qualified infrastructure project owner within 60 days of the expiration of the exemption certificate under subsection (3)(d) of this section must pay any tax due under this subsection. The

department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due if the amount due is paid within the 60-day period, or any extension thereof. The department may require a qualified infrastructure project owner to periodically submit documentation, as specified by the department, prior to the expiration of the exemption certificate to allow the department to track the total amount of sales and use tax exempted under this section and section 2 of this act.

(6) This section expires January 1, 2030.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW to read as follows:

(1) Provided an exemption certificate has been issued pursuant to section 1 of this act, the provisions of this chapter do not apply with respect to the use of:

(a) Labor and services rendered in respect to the installation of any equipment or other tangible personal property incorporated into a qualified infrastructure project; and

(b) Building materials, telecommunications equipment, and tangible personal property incorporated into a qualified infrastructure project.

(2) The exemption provided in subsection (1) of this section does not apply to local use taxes.

(3) All of the eligibility requirements, conditions, limitations, and definitions in section 1 of this act apply to this section.

(4) For purposes of this section, "local use tax" means a use tax imposed by a local government under the authority of chapter 82.14 or 81.104 RCW.

(5) This section expires January 1, 2030.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW to read as follows:

(1) In order to obtain the exemption provided in this act, a qualified infrastructure project owner must certify to the department of labor and industries that the work performed on the qualified infrastructure project by the prime contractor and its subcontractors was performed under the terms of a community workforce agreement or project labor agreement negotiated prior to the start of the qualified infrastructure project. The agreements must include worker compensation requirements consistent with the payment of area standard prevailing wages in accordance with chapter 39.12 RCW, apprenticeship utilization requirements, and tribal employment and contracting opportunities, provided the following:

(a) The owner and the prime contractor and all of its subcontractors regardless of tier have the absolute right to select any qualified and responsible bidder for the award of contracts on a specified project without reference to the existence or nonexistence of any agreements between such bidder and any party to such project labor agreement, and only when such bidder is willing, ready, and able to become a party to, signs a letter of assent, and complies with such agreement or agreements, should it be designated the successful bidder; and

(b) It is understood that this is a self-contained, stand-alone agreement, and that by virtue of having become bound to such agreement or agreements, neither the project contractor nor the subcontractors are obligated to sign any other local, area, or national agreement.

(2) This section expires January 1, 2030.

NEW SECTION. **Sec. 4.** RCW 82.32.808 does not apply to this act.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the House April 20, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 356

[Engrossed Substitute House Bill 1744]

CHARTER SCHOOLS—ADMINISTRATION AND OVERSIGHT—VARIOUS PROVISIONS

AN ACT Relating to clarifying the responsibilities and accountability for the effective delivery and oversight of public education services to charter school students; amending RCW 28A.710.030, 28A.710.040, 28A.710.070, 28A.710.100, 28A.710.120, 28A.710.140, 28A.710.180, and 28A.710.190; adding new sections to chapter 28A.710 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that requirements governing the establishment and operations of public charter schools have proven insufficient. These schools have experienced a steady growth in student enrollment and often provide valuable educational opportunities for families in communities across Washington state.

(2) However, several of these schools have closed in the decade since Washington voters authorized the establishment of charter schools. As a result, students, parents, and staff in several Puget Sound locations and in Walla Walla were left to make alternative arrangements for school and work, unexpectedly and without adequate notice, when their school closed. Furthermore, in one western Washington school, the disappointment proved especially difficult as the charter school opened and permanently ceased operations within the span of a few months. Under no circumstances is a disruption of this nature acceptable to the many students, families, and staff that were profoundly impacted by the closure.

(3) The legislature also finds that the establishment and operational challenges of some public charter schools are not limited to school closures: Some public charter schools have failed to properly and timely comply with teacher certification requirements, but an additional reporting requirement for charter schools can reinforce existing requirements and help to avoid any future problems; some public charter school boards have demonstrated ineffective leadership and oversight, leading to charter school closures; and the charter school commission has authorized charter schools that were not able to deliver sustained education services in the manner set forth in their charter school application or charter contract, as evidenced by multiple closures and the disruptions they created for students, families, and staff.

(4) The legislature authorized the establishment of charter schools in 2016 after the supreme court invalidated charter school laws adopted through a voter initiative. As a result, the legislature has an obligation to ensure that the responsibilities for the oversight of charter public schools are clearly delineated

and adequate to ensure the highest standards of practices and public accountability. The legislature is committed to ensuring all authorized public charter schools in Washington are successful in their mission to serve Washington students. The legislature, therefore, intends to clarify responsibilities and increase the accountability measures governing the effective delivery and oversight of public education services to public charter school students.

Sec. 2. RCW 28A.710.030 and 2016 c 241 s 103 are each amended to read as follows:

(1) To fulfill its duty to manage and operate the charter school, and to execute the terms of its charter contract, a charter school board may:

(a) Hire, manage, and discharge charter school employees in accordance with the terms of this chapter and the school's charter contract;

(b) Receive and disburse funds for the purposes of the charter school;

(c) Enter into contracts with any school district, educational service district, or other public or private entity for the provision of real property, equipment, goods, supplies, and services, including educational instructional services, pupil transportation services, and for the management and operation of the charter school, provided the charter school board maintains oversight authority over the charter school. Contracts for management operation of the charter school may only be with nonprofit organizations;

(d) Rent, lease, purchase, or own real property. All charter contracts and contracts with other entities must include provisions regarding the disposition of the property if the charter school fails to open as planned or closes, or if the charter contract is revoked or not renewed;

(e) Issue secured and unsecured debt, including pledging, assigning, or encumbering its assets to be used as collateral for loans or extensions of credit to manage cash flow, improve operations, or finance the acquisition of real property or equipment. However, the charter public school may not pledge, assign, or encumber any public funds received or to be received pursuant to RCW 28A.710.220. Debt issued under this subsection (1)(e) is not a general, special, or moral obligation of the state, the charter school authorizer, the school district in which the charter school is located, or any other political subdivision or agency of the state. Neither the full faith and credit nor the taxing power of the state, or any political subdivision or agency of the state, may be pledged for the payment of the debt;

(f) Solicit, accept, and administer for the benefit of the charter school and its students, gifts, grants, and donations from individuals, or public or private entities, excluding sectarian or religious organizations. A charter school board may not accept any gifts or donations that violate this chapter or other state laws; and

(g) Issue diplomas to students who meet state high school graduation requirements established under RCW 28A.230.090. A charter school board may establish additional graduation requirements.

(2) A charter school board must ((~~contract for an independent performance~~)) obtain an accountability audit of the school to be conducted: (a) The second year immediately following the school's first full school year of operation; and (b) at least every three years thereafter. ((~~The performance audit must be conducted in accordance with United States general accounting office government auditing~~

~~standards. A performance~~)) An audit in compliance with this section does not inhibit the state auditor's office from conducting a performance audit of the school.

(3) A charter school board may not levy taxes or issue tax-backed bonds.

(4) A charter school board may not acquire property by eminent domain.

(5) A charter school board, through website postings and written notice with receipt acknowledged by signature of the recipient, must advise families of new, ongoing, and prospective students of any ongoing litigation challenging the constitutionality of charter schools or that may require charter schools to cease operations.

(6) Each charter school board shall ensure that its members and administrative staff receive annual training to support the effective operation and oversight of the charter school, including compliance with requirements governing the employment of properly credentialed instructional staff, compliance with the requirements of chapters 42.30 and 42.56 RCW, and the permitted uses of public funds.

Sec. 3. RCW 28A.710.040 and 2018 c 75 s 9 are each amended to read as follows:

(1) A charter school must operate according to the terms of its charter contract and the provisions of this chapter.

(2) A charter school must:

(a) Comply with local, state, and federal health, safety, parents' rights, civil rights, and nondiscrimination laws applicable to school districts and to the same extent as school districts, including but not limited to chapter 28A.642 RCW (discrimination prohibition) ((~~and~~)), chapter 28A.640 RCW (sexual equality), chapter 28A.180 RCW (transitional bilingual instruction program), and chapter 28A.155 RCW (special education);

(b) Provide a program of basic education, that meets the goals in RCW 28A.150.210, including instruction in the ((~~essential academic learning requirements~~)) state learning standards, and participate in the statewide student assessment system as developed under RCW 28A.655.070;

(c) Comply with the screening and intervention requirements under RCW 28A.320.260;

(d) Employ certificated instructional staff as required in RCW 28A.410.025. Charter schools, however, may hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW 28A.150.203(7), according to the same limited exceptions that apply to other public schools. Beginning November 1, 2023, and annually thereafter, charter schools shall report the employment of all noncertificated instructional staff hired in accordance with this subsection (2)(d) during the current and preceding school year to the executive director of the commission and the state board of education for inclusion in the annual report required by RCW 28A.710.250;

(e) Comply with the employee record check requirements in RCW 28A.400.303;

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

(g) Comply with the annual performance report under RCW 28A.655.110;

(h) Be subject to the performance improvement goals adopted by the state board of education under RCW 28A.305.130;

(i) Comply with the open public meetings act in chapter 42.30 RCW and public records requirements in chapter 42.56 RCW; and

(j) Be subject to and comply with legislation enacted after December 6, 2012, that governs the operation and management of charter schools.

(3) Charter public schools must comply with all state statutes and rules made applicable to the charter school in the school's charter contract, and are subject to the specific state statutes and rules identified in subsection (2) of this section. For the purpose of allowing flexibility to innovate in areas such as scheduling, personnel, funding, and educational programs to improve student outcomes and academic achievement, charter schools are not subject to, and are exempt from, all other state statutes and rules applicable to school districts and school district boards of directors. Except as provided otherwise by this chapter or a charter contract, charter schools are exempt from all school district policies.

(4) A charter school may not engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

(5) Charter schools are subject to the supervision of the superintendent of public instruction and the state board of education, including accountability measures such as the Washington achievement index developed by the state board of education under RCW 28A.657.110, to the same extent as other public schools, except as otherwise provided in this chapter.

Sec. 4. RCW 28A.710.070 and 2020 c 49 s 2 are each amended to read as follows:

(1) The Washington state charter school commission is established as an independent state agency whose mission is to ((~~authorize~~)):

(a) Authorize high quality charter public schools throughout the state, especially schools that are designed to expand opportunities for at-risk students((~~, and to ensure~~));

(b) Ensure the highest standards of accountability and oversight for these schools; and

(c) Hold charter school boards accountable for: Ensuring that students of charter public schools have opportunities for academic success; and exercising effective educational, operational, and financial oversight of charter public schools.

(2) The commission shall, through its management, supervision, and enforcement of the charter contracts and pursuant to applicable law, administer the charter schools it authorizes in the same manner as a school district board of directors administers other schools.

(3)(a) The commission shall consist of:

(i) Nine appointed members;

(ii) The superintendent of public instruction or the superintendent's designee; and

(iii) The chair of the state board of education or the chair's designee.

(b) Appointments to the commission shall be as follows: Three members shall be appointed by the governor; three members shall be appointed by the senate, with two members appointed by the leader of the largest caucus of the senate and one member appointed by the leader of the minority caucus of the senate; and three members shall be appointed by the house of representatives,

with two members appointed by the speaker of the house of representatives and one member appointed by the leader of the minority caucus of the house of representatives. The appointing authorities shall assure diversity among commission members, including representation from various geographic areas of the state and shall assure that at least one member is the parent of a Washington public school student.

(4) Members appointed to the commission shall collectively possess strong experience and expertise in public and nonprofit governance; management and finance; public school leadership, assessment, curriculum, and instruction; and public education law. All appointed members shall have demonstrated an understanding of and commitment to charter schooling as a strategy for strengthening public education.

(5) Appointed members shall serve four-year, staggered terms. The initial appointments from each of the appointing authorities must consist of one member appointed to a one-year term, one member appointed to a two-year term, and one member appointed to a three-year term, all of whom thereafter may be reappointed for a four-year term. No appointed member may serve more than two consecutive terms. Initial appointments must be made by July 1, 2016.

(6) Whenever a vacancy on the commission exists among its appointed membership, the original appointing authority must appoint a member for the remaining portion of the term within no more than thirty days.

(7) Commission members shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(8) The commission may hire an executive director and may employ staff as necessary to carry out its duties under this chapter. The commission may delegate to the executive director the duties as necessary to effectively and efficiently execute the business of the commission, including the authority to employ necessary staff. In accordance with RCW 41.06.070, the executive director and the executive director's confidential secretary are exempt from the provisions of chapter 41.06 RCW.

(9) The commission shall reside within the office of the superintendent of public instruction for administrative purposes only.

(10) RCW 28A.710.090 and 28A.710.120 do not apply to the commission.

Sec. 5. RCW 28A.710.100 and 2016 c 241 s 110 are each amended to read as follows:

(1) Authorizers are responsible for:

(a) Holding the charter school board of each authorized charter school accountable for: Ensuring that students in the charter school have opportunities for academic success; and exercising effective educational, operational, and financial oversight of the charter school;

(b) Soliciting and evaluating charter applications;

(((~~(b)~~))) (c) Approving charter applications that meet identified educational needs and promote a diversity of educational choices;

(((~~(c)~~))) (d) Denying charter applications that fail to meet statutory requirements, requirements of the authorizer, or both;

(((~~(d)~~))) (e) Negotiating and executing charter contracts with each authorized charter school;

(((~~(e)~~))) (f) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools including, without

limitation, education and academic performance goals and student achievement; ((~~and~~

~~(f)~~)) (g) Determining whether each charter contract merits renewal, nonrenewal, or revocation; and

(h) Ensuring that charter school boards comply with the annual training requirements in RCW 28A.710.030(6).

(2) An authorizer may delegate its responsibilities under this section to employees or contractors.

(3) All authorizers must develop and follow chartering policies and practices that are consistent with the principles and standards for quality charter authorizing developed by the national association of charter school authorizers in at least the following areas:

(a) Organizational capacity and infrastructure;

(b) Soliciting and evaluating charter applications;

(c) Performance contracting;

(d) Ongoing charter school oversight and evaluation; and

(e) Charter renewal decision making.

(4) Each authorizer must submit an annual report to the state board of education, according to a timeline, content, and format specified by the board that includes:

(a) The authorizer's strategic vision for chartering and progress toward achieving that vision;

(b) The academic and financial performance of all operating charter schools under its jurisdiction, including the progress of the charter schools based on the authorizer's performance framework;

(c) The status of the authorizer's charter school portfolio, identifying all charter schools in each of the following categories: (i) Approved but not yet open; (ii) operating; (iii) renewed; (iv) transferred; (v) revoked; (vi) not renewed; (vii) voluntarily closed; or (viii) never opened;

(d) The authorizer's operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles; and

(e) The services purchased from the authorizer by the charter schools under its jurisdiction under RCW 28A.710.110, including an itemized accounting of the actual costs of these services.

(5) Neither an authorizer, individuals who comprise the membership of an authorizer in their official capacity, nor the employees of an authorizer are liable for acts or omissions of a charter school they authorize.

(6) No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a charter school under the jurisdiction of that authorizer.

Sec. 6. RCW 28A.710.120 and 2016 c 241 s 112 are each amended to read as follows:

(1) The state board of education is responsible for overseeing the performance and effectiveness of all authorizers ((~~approved under RCW 28A.710.090~~)).

(2) Persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, a high percentage of charter school closures during the

preceding 10-year period, or other objective circumstances may trigger a special review by the state board of education.

(3) In reviewing or evaluating the performance of authorizers, the state board of education must apply nationally recognized principles and standards for quality charter authorizing. Evidence of material or persistent failure by an authorizer to carry out its duties in accordance with these principles and standards constitutes grounds for revocation of the authorizing contract by the state board of education, as provided under this section.

(4) If at any time the state board of education finds that an authorizer is not in compliance with a charter contract, its authorizing contract, or the authorizer duties under RCW 28A.710.100, the board must notify the authorizer in writing of the identified problems, and the authorizer must have reasonable opportunity to respond and remedy the problems.

(5) ((~~If~~)) Except as provided otherwise in subsection (7) of this section if, after due notice from the state board of education, an authorizer persists in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified authorizing problems, the state board of education shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

(6) In the event of revocation of any authorizer's chartering authority, the state board of education shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with the mutual agreement of each affected charter school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term.

(7) If the commission is the subject of the special review under this section, the state board of education shall have one year from the initiation of its review to complete the review and provide a report with findings and recommendations, including any recommendations for statutory revisions it deems necessary, to the governor, the superintendent of public instruction, and the appropriate committees of the house of representatives and the senate.

(8) The state board of education must establish timelines and a process for taking actions under this section in response to performance deficiencies by an authorizer.

Sec. 7. RCW 28A.710.140 and 2016 c 241 s 114 are each amended to read as follows:

(1) The state board of education must establish an annual statewide timeline for charter application submission and approval or denial that must be followed by all authorizers.

(2) In reviewing and evaluating charter applications, authorizers shall employ procedures, practices, and criteria consistent with nationally recognized principles and standards for quality charter authorizing. Authorizers shall give preference to applications for charter schools that are designed to enroll and serve at-risk student populations. However, nothing in this chapter may be construed as intended to limit the establishment of charter schools to those that serve a substantial portion of at-risk students, or to in any manner restrict, limit, or discourage the establishment of charter schools that enroll and serve other

pupil populations under a nonexclusive, nondiscriminatory admissions policy. The application review process must include thorough evaluation of each application, an in-person interview with the applicant group, and an opportunity to learn about and provide input on each application in a public forum including, without limitation, parents, community members, local residents, and school district board members and staff.

(3) In deciding whether to approve an application, authorizers must:

(a) Grant charters only to applicants that have demonstrated competence in each element of the authorizer's published approval criteria and are likely to open ((~~and~~)), operate, and ensure the financial viability of a successful charter public school;

(b) Base decisions on documented evidence collected through the application review process;

(c) Follow charter-granting policies and practices that are transparent and based on merit; and

(d) Avoid any conflicts of interest, whether real or apparent.

(4) An approval decision may include, if appropriate, reasonable conditions that the charter applicant must meet before a charter contract may be executed.

(5) For any denial of an application, the authorizer shall clearly state in writing its reasons for denial. A denied applicant may subsequently reapply to that authorizer or apply to another authorizer in the state.

Sec. 8. RCW 28A.710.180 and 2016 c 241 s 118 are each amended to read as follows:

(1) Each authorizer must continually monitor the performance and legal compliance of the charter schools under its jurisdiction, including collecting and analyzing data to support ongoing evaluation according to the performance framework in the charter contract.

(2) An authorizer may conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations((~~, if those activities are consistent with the intent of this chapter, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to charter schools~~)). Examples of permitted reasons for conducting or requiring oversight activities under this section include, but are not limited to: The persistent unsatisfactory performance of a charter school; a pattern of well-founded complaints about a charter school; the authority to conduct such oversight activities as provided by statute, rule, or charter contract; or other objective circumstances.

(3) In the event that a charter school's performance, financial status, or legal compliance appears unsatisfactory, the authorizer must promptly notify the school of the perceived problem and provide reasonable opportunity for the school to remedy the problem. However, if the problem warrants revocation of the charter contract, the revocation procedures under RCW 28A.710.200 apply.

(4) An authorizer may take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. These actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified time frame.

Sec. 9. RCW 28A.710.190 and 2016 c 241 s 119 are each amended to read as follows:

(1) A charter contract may be renewed by the authorizer, at the request of the charter school, for successive five-year terms. The authorizer, however, may vary the term based on the performance, demonstrated capacities, and particular circumstances of a charter school, and may grant renewal with specific conditions for necessary improvements to a charter school.

(2) No later than six months before the expiration of a charter contract, the authorizer must issue a performance report and charter contract renewal application guidance to the charter school. The performance report must summarize the charter school's performance record to date based on the data required by the charter contract, and must provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter school that may, if not timely rectified, jeopardize its position in seeking renewal. The charter school has thirty days to respond to the performance report and submit any corrections or clarifications for the report.

(3) The renewal application guidance must, at a minimum, provide an opportunity for the charter school to:

(a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter contract renewal;

(b) Describe improvements undertaken or planned for the school; and

(c) Detail the school's plans for the next charter contract term.

(4) The renewal application guidance must include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, and this criteria must be based on the performance framework set forth in the charter contract.

(5) In making charter renewal decisions, an authorizer must:

(a) Hold the charter school board accountable for: Ensuring that students of the charter school have opportunities for academic success; and exercising effective educational, operational, and financial oversight of the charter school;

(b) Base its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;

((~~(b)~~)) (c) Ensure that data used in making renewal decisions are available to the school and the public; and

((~~(c)~~)) (d) Provide a public report summarizing the evidence basis for its decision.

NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.710 RCW to read as follows:

(1) Beginning with the 2023-24 school year, the commission shall promote the effective administration and operation of charter schools through the provision of technical assistance to requesting charter schools, charter school boards, or both.

(2) The principal objective of technical assistance provided in accordance with this section, which may be provided by commission staff or through a contractor, must be to support charter schools and charter school boards in achieving and maintaining compliance with the requirements of this chapter and other provisions of Title 28A RCW governing the operation of charter schools. In responding to requests for technical assistance, the commission shall

prioritize the provision of assistance to charter schools that have been in operation for three or fewer school years.

(3) Technical assistance provided in accordance with this section: May only be provided at the request of the applicable charter school or charter school board; and is unrelated to, and does not affect or otherwise modify, duties of the commission in its role as an authorizer.

(4) For the purposes of this section, "technical assistance" means the provision of training, which may be provided by commission staff or through a contractor, to support charter schools and charter school boards in their responsibility to achieve and maintain compliance with applicable state and federal laws and with their charter school contract.

NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.710 RCW to read as follows:

(1)(a) By November 1, 2023, the commission shall establish and maintain on its website an online system for students who attend charter schools, and the parents of those students, to submit complaints about the operation and administration of one or more charter schools, including complaints about the provision of education services and complaints alleging noncompliance with the requirements of this chapter or other provisions governing charter schools.

(b) The commission shall acknowledge the receipt of each received complaint within 10 business days and shall, in a timely manner, perform any inquiries or other actions it deems necessary and appropriate to respond to each received complaint.

(2) The commission shall adopt and revise as necessary rules to implement this section.

NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.710 RCW to read as follows:

Each charter school shall prominently post and maintain on its website information about the school's process and instructions for submitting complaints about the operation and administration of the charter school by its enrolled students and their parents. This information must include a designated point of contact at the charter school and a link to the complaint system of the commission that is required by section 11 of this act.

Passed by the House April 19, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 357

[Senate Bill 5000]

CHINESE AMERICAN/AMERICANS OF CHINESE DESCENT HISTORY MONTH

AN ACT Relating to recognizing contributions of Americans of Chinese descent; adding a new section to chapter 43.117 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature intends to designate a time of year to formally remember and recognize the contributions of Chinese Americans and finds that January of each year is a relevant and appropriate time for such

recognition. The legislature finds that the California gold rush began on January 24, 1848, which brought thousands of people to the area, approximately 30 percent of whom were Chinese immigrants. With the immigration to the west as a result of the gold rush, Washington became home to many Chinese immigrants. Chinese immigrants contributed greatly to Washington's economy as miners and workers in the salmon canning industry. The Chinese population in Washington also grew when construction of the Northern Pacific Railroad transcontinental line began in 1871, which ran from Wisconsin and Minnesota to Washington and Oregon, as many laborers who were recruited to work on the railroad were Chinese.

The legislature also finds that designating January of each year as a time to recognize the contributions of Chinese Americans is relevant in acknowledging the contributions of notable early Chinese settlers. Goon Dip was well known as a visionary, philanthropist, and entrepreneur, and is said to be the most influential Chinese immigrant in the Pacific Coast during the early 20th century. Goon Dip created a garment industry in Portland, Oregon where he taught Chinese men who were disabled and unable to perform manual labor how to sew. Goon Dip later expanded his business ventures to Seattle when in January 1909, the Chinese government appointed him as honorary consul for the Alaska-Yukon-Pacific Exposition, Washington's first world's fair, held in Seattle. Anticipating large crowds for the fair, Goon Dip built the Milwaukee Hotel at 662 King Street, which would house hundreds of tourists. Goon Dip was also influential in persuading Chinese businessmen to move Chinatown away from the Elliott Bay tidelands to the area around the new King Street Station at 2nd Avenue and Jackson Street. After his role as honorary consul during the Alaska-Yukon-Pacific Exposition, Goon Dip was named permanent consul and served under both the Manchu dynasty and the Kuomintang. Goon Dip died on September 12, 1933, at the Milwaukee Hotel and is buried in the family plot in Lake View cemetery in Seattle. January is also the birth month of notable contemporary Chinese Americans in the state, including Gary Locke, who graduated from Seattle's Franklin High School and was the first Chinese American elected as Governor in the continental United States, the first Chinese American Secretary of Commerce, and the first Chinese American ambassador to China.

The legislature finds that these and other contributions to the state's rich history and economy by Chinese Americans is worthy of recognition and celebration. The legislature further finds that teaching this history in schools will help to commemorate the important achievements of Chinese Americans.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.117 RCW to read as follows:

(1) With the rise of economic opportunity in America and other parts of the world in the 19th century, the Chinese diaspora is now one of the largest in the world. As a result, many of those who are, or whose ancestors were, part of the Chinese diaspora have varied perspectives, experiences, and approaches in how they preserve their identity as Chinese Americans and Americans of Chinese descent.

(2) January of each year will be designated as a time for people of this state to commemorate the contributions of Chinese Americans and Americans of

Chinese descent to the history and heritage of Washington state and shall be designated as Chinese American/Americans of Chinese descent history month.

(3) Public schools are encouraged to designate time in January for appropriate activities in commemoration of the lives, history, achievements, and contributions of Chinese Americans and Americans of Chinese descent.

Passed by the Senate April 13, 2023.
Passed by the House April 6, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 358

[Substitute Senate Bill 5101]

DEPARTMENT OF CORRECTIONS—EXTRAORDINARY MEDICAL PLACEMENT—ELIGIBILITY AND MONITORING

AN ACT Relating to extraordinary medical placement for incarcerated individuals at the department of corrections; and reenacting and amending RCW 9.94A.728.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.728 and 2021 c 311 s 19 and 2021 c 266 s 2 are each reenacted and amended to read as follows:

(1) No ((~~person~~)) incarcerated individual serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(a) An ((~~offender~~)) incarcerated individual may earn early release time as authorized by RCW 9.94A.729;

(b) An ((~~offender~~)) incarcerated individual may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, ((~~offenders~~)) incarcerated individuals may leave a correctional facility when in the custody of a corrections officer or officers;

(c)(i) The secretary may authorize an extraordinary medical placement for an ((~~offender~~)) incarcerated individual when all of the following conditions exist:

(A) The ((~~offender~~)) incarcerated individual has ((~~a medical condition that is serious and is expected to require costly care or treatment~~)) been assessed by two physicians and is determined to be one of the following:

(I) Affected by a permanent or degenerative medical condition to such a degree that the individual does not presently, and likely will not in the future, pose a threat to public safety; or

(II) In ill health and is expected to die within six months and does not presently, and likely will not in the future, pose a threat to public safety;

(B) The ((~~offender poses a~~)) incarcerated individual has been assessed as low risk to the community ((~~because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so~~)) at the time of release; and

(C) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(ii) An ((~~offender~~)) incarcerated individual sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(iii) The secretary shall require electronic monitoring for all ((~~offenders~~)) individuals in extraordinary medical placement unless the electronic monitoring equipment is detrimental to the individual's health, interferes with the function of the ((~~offender's~~)) individual's medical equipment, or results in the loss of funding for the ((~~offender's~~)) individual's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

(d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(e) No more than the final ((~~twelve~~)) 12 months of the ((~~offender's~~)) incarcerated individual's term of confinement may be served in partial confinement for aiding the ((~~offender~~)) incarcerated individual with: Finding work as part of the work release program under chapter 72.65 RCW; or reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(f)(i) No more than the final five months of the ((~~offender's~~)) incarcerated individual's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733(1)(a);

(ii) For eligible ((~~offenders~~)) incarcerated individuals under RCW 9.94A.733(1)(b), after serving at least four months in total confinement in a state correctional facility, an ((~~offender~~)) incarcerated individual may serve no more than the final 18 months of the ((~~offender's~~)) incarcerated individual's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department;

(g) The governor may pardon any ((~~offender~~)) incarcerated individual;

(h) The department may release an ((~~offender~~)) incarcerated individual from confinement any time within ((~~ten~~)) 10 days before a release date calculated under this section;

(i) An ((~~offender~~)) incarcerated individual may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870;

(j) Notwithstanding any other provisions of this section, an ((~~offender~~)) incarcerated individual sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory

minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(k) Any ((~~person~~)) individual convicted of one or more crimes committed prior to the ((~~person's eighteenth~~)) individual's 18th birthday may be released from confinement pursuant to RCW 9.94A.730.

(2) Notwithstanding any other provision of this section, an ((~~offender~~)) incarcerated individual entitled to vacation of a conviction or the recalculation of his or her offender score pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from confinement pursuant to a court order if the ((~~offender~~)) incarcerated individual has already served a period of confinement that exceeds his or her new standard range. This provision does not create an independent right to release from confinement prior to resentencing.

(3) ((~~Offenders~~)) Individuals residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section.

Passed by the Senate April 14, 2023.
Passed by the House April 5, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 359

[Engrossed Substitute Senate Bill 5123]

USE OF CANNABIS—EMPLOYMENT DISCRIMINATION

AN ACT Relating to the employment of individuals who lawfully consume cannabis; adding new sections to chapter 49.44 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44 RCW to read as follows:

The legislature finds that the legalization of recreational cannabis in Washington state in 2012 created a disconnect between prospective employees' legal activities and employers' hiring practices. Many tests for cannabis show only the presence of nonpsychoactive cannabis metabolites from past cannabis use, including up to 30 days in the past, that have no correlation to an applicant's future job performance. Applicants are much less likely to test positive or be disqualified for the presence of alcohol on a preemployment screening test compared with cannabis, despite both being legally allowed controlled substances. The legislature intends to prevent restricting job opportunities based on an applicant's past use of cannabis.

NEW SECTION. **Sec. 2.** A new section is added to chapter 49.44 RCW to read as follows:

(1) It is unlawful for an employer to discriminate against a person in the initial hiring for employment if the discrimination is based upon:

(a) The person's use of cannabis off the job and away from the workplace; or

(b) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

(2) Nothing in this section:

(a) Prohibits an employer from basing initial hiring decisions on scientifically valid drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites;

(b) Affects the rights or obligations of an employer to maintain a drug and alcohol free workplace, or any other rights or obligations of an employer required by federal law or regulation; or

(c) Applies to testing for controlled substances other than preemployment, such as postaccident testing or testing because of a suspicion of impairment or being under the influence of alcohol, controlled substances, medications, or other substances.

(3) This section does not apply to an applicant seeking:

(a) A position requiring a federal government background investigation or security clearance;

(b) A position with a general authority Washington law enforcement agency as defined in RCW 10.93.020;

(c) A position with a fire department, fire protection district, or regional fire protection service authority;

(d) A position as a first responder not included under (b) or (c) of this subsection, including a dispatcher position with a public or private 911 emergency communications system or a position responsible for the provision of emergency medical services;

(e) A position as a corrections officer with a jail, detention facility, or the department of corrections, including any position directly responsible for the custody, safety, and security of persons confined in those facilities;

(f) A position in the airline or aerospace industries; or

(g) A safety sensitive position for which impairment while working presents a substantial risk of death. Such safety sensitive positions must be identified by the employer prior to the applicant's application for employment.

(4)(a) This section does not preempt state or federal laws requiring an applicant to be tested for controlled substances. This includes state or federal laws requiring applicants to be tested, or the way they are tested, as a condition of employment, receiving federal funding or federal licensing-related benefits, or as required by a federal contract.

(b) Employers may require an applicant to be tested for a spectrum of controlled substances, which may include cannabis, as long as the cannabis results are not provided to the employer. Such policies are fully subject to subsection (1) of this section.

(5) For the purposes of this section, "cannabis" has the meaning provided in RCW 69.50.101.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2024.

Passed by the Senate April 19, 2023.

Passed by the House April 18, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 360

[Engrossed Substitute Senate Bill 5152]

ELECTIONEERING COMMUNICATIONS—USE OF SYNTHETIC MEDIA

AN ACT Relating to defining synthetic media in campaigns for elective office, and providing relief for candidates and campaigns; and adding a new chapter to Title 42 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The definitions used in chapter 42.17A RCW apply throughout this chapter unless the context clearly requires otherwise.

NEW SECTION. **Sec. 2.** (1) For purposes of this section "synthetic media" means an image, an audio recording, or a video recording of an individual's appearance, speech, or conduct that has been intentionally manipulated with the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false image, audio, or video that produces:

(a) A depiction that to a reasonable individual is of a real individual in appearance, action, or speech that did not actually occur in reality; and

(b) A fundamentally different understanding or impression of the appearance, action, or speech than a reasonable person would have from the unaltered, original version of the image, audio recording, or video recording.

(2) A candidate whose appearance, action, or speech is altered through the use of a synthetic media in an electioneering communication may seek injunctive or other equitable relief prohibiting the publication of such synthetic media.

(3) A candidate whose appearance, action, or speech is altered through the use of a synthetic media in an electioneering communication may bring an action for general or special damages against the sponsor. The court may also award a prevailing party reasonable attorneys' fees and costs. This subsection does not limit or preclude a plaintiff from securing or recovering any other available remedy.

(4) It is an affirmative defense for any action brought under this section that the electioneering communication containing a synthetic media includes a disclosure stating, "This (image/video/audio) has been manipulated," in the following manner:

(a) For visual media, the text of the disclosure must appear in size easily readable by the average viewer and no smaller than the largest font size of other text appearing in the visual media. If the visual media does not include any other text, the disclosure must appear in a size that is easily readable by the average viewer. For visual media that is a video, the disclosure must appear for the duration of the video; or

(b) If the media consists of audio only, the disclosure must be read in a clearly spoken manner and in a pitch that can be easily heard by the average listener, at the beginning of the audio, at the end of the audio, and, if the audio is greater than two minutes in length, interspersed within the audio at intervals of not more than two minutes each.

(5) In any action commenced under this section, the plaintiff bears the burden of establishing the use of synthetic media by clear and convincing evidence.

(6) Courts are encouraged to determine matters under this section expediently.

NEW SECTION. **Sec. 3.** (1) For an action brought under section 2 of this act, the sponsor of the electioneering communication may be held liable, and not the medium disseminating the electioneering communication except as provided in subsection (2) of this section.

(2) Except when a licensee, programmer, or operator of a federally licensed broadcasting station transmits an electioneering communication that is subject to 47 U.S.C. Sec. 315, a medium may be held liable in a cause of action brought under section 2 of this act if:

(a) The medium removes any disclosure described in section 2(4) of this act from the electioneering communication it disseminates; or

(b) Subject to affirmative defenses described in section 2 of this act, the medium changes the content of an electioneering communication such that it qualifies as synthetic media, as defined in section 2 of this act.

(3)(a) No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. However, an interactive computer service may be held liable in accordance with subsection (2) of this section.

(b) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

(c) "Information content provider" means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the internet or any other interactive computer service.

NEW SECTION. **Sec. 4.** The public disclosure commission must adopt rules in furtherance of the purpose of this chapter. Nothing in this chapter constitutes a violation under chapter 42.17A RCW, or otherwise authorizes the public disclosure commission to take action under RCW 42.17A.755.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 42 RCW.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate April 14, 2023.
Passed by the House April 6, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 361

[Senate Bill 5153]

FUTURE VOTERS—VOTER RECORDS DISCLOSURE

AN ACT Relating to uniform disclosure of records related to future voters and making conforming amendments related to participation of future voters in state primaries; amending RCW 29A.04.070, 29A.08.170, 29A.08.174, 29A.08.330, 29A.08.615, 29A.08.710, 29A.08.760, 29A.08.770, 29A.80.041, 46.20.155, 46.20.155, 42.56.230, and 42.56.250; reenacting and amending RCW 29A.08.720; adding a new section to chapter 29A.08 RCW; repealing RCW 29A.08.375; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.08 RCW to read as follows:

Information that is otherwise disclosable under this chapter cannot be disclosed for a future voter until the person reaches 18 years of age, or until the person is eligible to participate in the next presidential primary, primary, or election. This information is exempt from public inspection and copying under chapter 42.56 RCW. Information may be disclosed for the purpose of processing and delivering ballots.

Sec. 2. RCW 29A.04.070 and 2018 c 109 s 2 are each amended to read as follows:

"Future voter" means a United States citizen and Washington state resident, age sixteen or seventeen, who ((~~wishes to provide~~)) has provided information related to voter registration to the appropriate state agencies.

Sec. 3. RCW 29A.08.170 and 2020 c 208 s 15 are each amended to read as follows:

(1) A person may sign up to register to vote if he or she is sixteen or seventeen years of age, as part of the future voter program.

(2) A person who signs up to register to vote may not vote until reaching eighteen years of age unless the person is seventeen years of age at the primary election or presidential primary election and will be eighteen years of age by the general election.

(3) A person who signs up to register to vote may not be added to the statewide voter registration ((~~database~~)) list of voters until such time as he or she will be eligible to vote in the next election.

Sec. 4. RCW 29A.08.174 and 2020 c 208 s 17 are each amended to read as follows:

(1) A person who has attained sixteen years of age and has a valid Washington state driver's license or identicard may sign up to register to vote as part of the future voter program, by submitting a voter registration application electronically on the secretary of state((~~'s~~)) website.

(2) The applicant must attest to the truth of the information provided on the application by affirmatively accepting the information as true.

(3) If signing up to register electronically, the applicant must affirmatively assent to the use of his or her driver's license or identicard signature for voter registration purposes.

(4) The applicant must affirmatively acknowledge that he or she will not vote in a special or general election until his or her eighteenth birthday, and will only vote in a primary election or presidential primary election if he or she will be eighteen years of age by the general election.

(5) For each electronic registration application, the secretary of state must obtain a digital copy of the applicant's driver's license or identicard signature from the department of licensing.

(6) The secretary of state may employ additional security measures to ensure the accuracy and integrity of voter preregistration applications submitted electronically.

Sec. 5. RCW 29A.08.330 and 2020 c 208 s 5 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the service agent shall ask the following:

(a) "Are you a United States citizen?"

(b) "Are you at least sixteen years old?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to sign up to vote, register to vote, or update a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration application.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

(5) Each designated agency shall transmit the applications to the secretary of state or appropriate county auditor within three business days and must be received by the election official by the required voter registration deadline.

(6) ((~~Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

Sec. 6. RCW 29A.08.615 and 2018 c 109 s 9 are each amended to read as follows:

(1) Registered voters are divided into two categories, "active" and "inactive." All registered voters are classified as active, unless assigned to inactive status by the county auditor.

(2) Persons signing up to register to vote as future voters as defined under RCW 29A.04.070 are classified as "pending" until the person will be at least

eighteen years of age by the next election, or eligible to participate in the next presidential primary or primary under RCW 29A.08.110 or 29A.08.170.

Sec. 7. RCW 29A.08.710 and 2018 c 109 s 10 are each amended to read as follows:

(1) The county auditor shall have custody of the original voter registration records and voter registration sign up records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(2)(a) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying, except as provided in RCW 40.24.060 and (b) of this subsection: The voter's name, address, political jurisdiction, gender, date of birth, voting record, date of registration, and registration number. No other information from voter registration records or files is available for public inspection or copying.

(b) ((~~The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

Sec. 8. RCW 29A.08.720 and 2018 c 110 s 206 and 2018 c 109 s 11 are each reenacted and amended to read as follows:

(1) In the case of voter registration records received through the health benefit exchange, the department of licensing, or an agency designated under RCW 29A.08.310, the identity of the office or agency at which any particular individual registered to vote must be used only for voter registration purposes, is not available for public inspection, and shall not be disclosed to the public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW 29A.08.310 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public. ((~~Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.~~))

(2) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

(3)(a) Subject to the restrictions of RCW 29A.08.710 and 40.24.060, and (b) of this subsection, precinct lists and current lists of registered voters are public records and must be made available for public inspection and copying under such reasonable rules and regulations as the county auditor or secretary of state may prescribe. The county auditor or secretary of state shall promptly furnish current lists of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information. The lists shall not be used for the purpose of mailing or delivering any advertisement or offer for any property,

establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the lists and labels may be used for any political purpose. The county auditor or secretary of state must provide a copy of RCW 29A.08.740 to the person requesting the material that is released under this section.

(b) ((~~The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.~~

~~(3)~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

(4) For the purposes of this section, "political purpose" means a purpose concerned with the support of or opposition to any candidate for any partisan or nonpartisan office or concerned with the support of or opposition to any ballot proposition or issue. "Political purpose" includes, but is not limited to, such activities as the advertising for or against any candidate or ballot measure or the solicitation of financial support.

Sec. 9. RCW 29A.08.760 and 2018 c 109 s 12 are each amended to read as follows:

The secretary of state shall provide a duplicate copy of the master statewide computer file or electronic data file of registered voters to the consolidated technology services agency for purposes of creating the jury source list without cost. The information contained in a voter registration application is exempt from inclusion until the applicant reaches age eighteen. ((~~Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act. Restrictions as to the commercial use of the information on the statewide computer ((~~tape or~~)) data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29A.08.720 and 29A.08.740.

Sec. 10. RCW 29A.08.770 and 2018 c 109 s 19 are each amended to read as follows:

The secretary of state and each county auditor shall maintain for at least two years and shall make available for public inspection and copying all records concerning the implementation of programs and activities conducted for the purpose of insuring the accuracy and currency of official lists of eligible voters. These records must include lists of the names and addresses of all persons to whom notices are sent and information concerning whether or not each person has responded to the notices. These records must contain lists of all persons removed from the list of eligible voters and the reasons why the voters were removed. ((~~The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.~~)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.

Sec. 11. RCW 29A.80.041 and 2020 c 208 s 19 are each amended to read as follows:

(1) Any member of a major political party who is a registered voter in the precinct and who will be at least eighteen years old by thedate of the precinct committee officer election may file his or her declaration of candidacy as prescribed under RCW 29A.24.031 with the county auditor for the office of precinct committee officer of his or her party in that precinct.

(2) Disclosure of filing information for precinct committee officer candidates who have not reached the age of 18 is the same as all candidates for precinct committee officer.

(3) When elected at the primary, the precinct committee officer shall serve so long as the committee officer remains an eligible voter in that precinct.

Sec. 12. RCW 46.20.155 and 2018 c 109 s 15 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:

(1) "Are you a United States citizen?"

(2) "Are you at least eighteen years old or are you at least sixteen years old and will you vote only after you turn eighteen?"

If the applicant answers in the affirmative to both questions, the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to either question, the agent shall not submit an application.

(2) Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed ((~~on the~~)) for a future voter until the person reaches eighteen years of age((~~, except~~)) or until the person is eligible to participate in the next presidential primary, primary, or election, or for the purpose of processing and delivering ballots.

((~~(2)~~)) (3) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

Sec. 13. RCW 46.20.155 and 2020 c 208 s 8 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:

((~~(1)~~)) "Are you a United States citizen?"
((~~(2) "Are you at least sixteen years old?"~~))

If the applicant answers in the affirmative ((~~to both questions~~)), the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to ((~~either~~)) the question, the agent shall not submit an application.

(2) Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed ((~~on the~~)) for a future voter until the person reaches eighteen years of age((~~, except~~)) or until the person is eligible to participate in the next presidential primary, primary, or election, or for the purpose of processing and delivering ballots.

((~~(2)~~)) (3) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

Sec. 14. RCW 42.56.230 and 2021 c 89 s 1 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of children, youth, and families;

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs;

(iii) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name as the child or if the family member or guardian resides at the same address as the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a)(i) and (ii) of this subsection; or

(iv) For substitute caregivers who are licensed or approved to provide overnight care of children by the department of children, youth, and families.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in (c) of this subsection (7) and this subsection (7)(d) that is subject to public disclosure;

(8) All information related to individual claim resolution settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals. The board of industrial insurance appeals shall provide to the department of labor and industries copies of all final claim resolution settlement agreements;

(9) Voluntarily submitted information contained in a database that is part of or associated with enhanced 911 emergency communications systems, or information contained or used in emergency notification systems as provided under RCW 38.52.575 and 38.52.577;

(10) ((~~Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots~~)) Information relating to a future voter, as provided in section 1 of this act;

(11) All information submitted by a person to the state, either directly or through a state-licensed gambling establishment, or Indian tribes, or tribal enterprises that own gambling operations or facilities with class III gaming compacts, as part of the self-exclusion program established in RCW 9.46.071 or 67.70.040 for people with a gambling problem or gambling disorder; and

(12) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under RCW 43.43.920.

Sec. 15. RCW 42.56.250 and 2020 c 106 s 1 are each amended to read as follows:

The following employment and licensing information is exempt from public inspection and copying under this chapter:

(1) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

(2) All applications for public employment other than for vacancies in elective office, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(3) Professional growth plans (PGPs) in educator license renewals submitted through the eCert system in the office of the superintendent of public instruction;

(4) The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, driver's license numbers, identicard numbers, payroll deductions including the amount and identification of the deduction, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

(5) Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed;

(6) Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure;

(7) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

(8) Photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as

defined in RCW 5.68.010(5), shall have access to the photographs and full date of birth. For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030;

(9) The global positioning system data that would indicate the location of the residence of a public employee or volunteer using the global positioning system recording device;

(10) ((~~Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots~~)) Information relating to a future voter, as provided in section 1 of this act; and

(11) Voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details. "Personal demographic details" means race or ethnicity, sexual orientation as defined by RCW 49.60.040((~~(26)~~)) (27), immigration status, national origin, or status as a person with a disability. This exemption does not prevent the release of state employee demographic information in a deidentified or aggregate format.

(12) Upon receipt of a request for information located exclusively in an employee's personnel, payroll, supervisor, or training file, the agency must provide notice to the employee, to any union representing the employee, and to the requestor. The notice must state:

(a) The date of the request;

(b) The nature of the requested record relating to the employee;

(c) That the agency will release any information in the record which is not exempt from the disclosure requirements of this chapter at least ten days from the date the notice is made; and

(d) That the employee may seek to enjoin release of the records under RCW 42.56.540.

NEW SECTION. **Sec. 16.** RCW 29A.08.375 (Automatic registration—Rule-making authority) and 2018 c 110 s 207 are each repealed.

NEW SECTION. **Sec. 17.** Section 12 of this act expires September 1, 2023.

NEW SECTION. **Sec. 18.** Section 13 of this act takes effect September 1, 2023.

Passed by the Senate April 14, 2023.
Passed by the House April 5, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 362

[Engrossed Senate Bill 5175]

SCHOOL PRINCIPALS—EMPLOYMENT CONTRACTS—TERM

AN ACT Relating to written contracts between school boards and principals; and amending RCW 28A.405.210 and 28A.400.300.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.405.210 and 2016 c 85 s 1 are each amended to read as follows:

(1) No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the Washington professional educator standards board for the position for which the employee is employed.

(2)(a) The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law and under (b) of this subsection, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

(b) A written contract made by a board with a principal under (a) of this subsection may be for a term of up to three years if the principal has: (i) Been employed as a principal for three or more consecutive years; (ii) been recommended by the superintendent as a candidate for a two or three-year contract because the principal has demonstrated the ability to stabilize instructional practices and received a comprehensive performance rating of level 3 or above in their most recent comprehensive performance evaluation under RCW 28A.405.100; and (iii) met the school district's requirements for satisfying an updated record check under RCW 28A.400.303. A written contract made by a board with a principal under (a) of this subsection for a term of three years may not be renewed before the final year of the contract.

(3) In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by the end of the regular legislative session for that year, then notification shall be no later than June 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ((~~ten~~)) 10 days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of

nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ((~~ten~~)) 10 days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

(4) This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or 28A.405.245 shall not be construed as a nonrenewal of contract for the purposes of this section.

Sec. 2. RCW 28A.400.300 and 2019 c 266 s 19 are each amended to read as follows:

(1) Every board of directors, unless otherwise specially provided by law, shall:

(a) Except as provided in RCW 28A.405.210(2) and subsection (3) of this section, employ for not more than one year, and for sufficient cause discharge all certificated and classified employees;

(b) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or classified qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and classified employees, and with such compensation as the board of directors prescribe. However, the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(i) For such persons under contract with the school district for a full year, at least ((~~ten~~)) 10 days;

(ii) For such persons under contract with the school district as part time employees, at least that portion of ((~~ten~~)) 10 days as the total number of days contracted for bears to ((~~one hundred eighty~~)) 180 days;

(iii) For certificated and classified employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed ((~~twelve~~)) 12 days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(iv) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(v) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of ((~~one hundred eighty~~)) 180 days for the purposes of RCW 28A.400.210 and 28A.400.220, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one year. Such accumulated time may be taken at any time during the school

year or up to ((~~twelve~~)) 12 days per year may be used for the purpose of payments for unused sick leave;

(vi) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(vii) Any leave for injury or illness accumulated up to a maximum of ((~~forty-five~~)) 45 days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.400.210 and 28A.310.490;

(viii) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction, offices of educational service district superintendents and boards, the state school for the blind, the Washington center for deaf and hard of hearing youth, institutions of higher education, and community and technical colleges, to and from such districts, schools, offices, institutions of higher education, and community and technical colleges;

(ix) Leave accumulated by a person in a district prior to leaving said district may, under rules of the board, be granted to such person when the person returns to the employment of the district.

(2) When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, the employee shall retain the same seniority, leave benefits and other benefits that the employee had in his or her previous position. However, classified employees who transfer between districts after July 28, 1985, shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

(3) Notwithstanding subsection (1)(a) of this section, discharges of certificated and classified employees in school districts that are dissolved due to financial insolvency shall be conducted in accordance with RCW 28A.315.229.

Passed by the Senate April 19, 2023.
Passed by the House April 6, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 363

[Substitute Senate Bill 5208]

ONLINE VOTER REGISTRATION—IDENTITY VERIFICATION

AN ACT Relating to updating the process for online voter registration by allowing voter applicants to provide the last four digits of social security number for authentication; amending RCW 29A.08.123; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 29A.08.123 and 2019 c 6 s 3 are each amended to read as follows:

(1) A person qualified to vote who has a valid:

(a) Washington state driver's license((,));

(b) Washington state identification card((, or));

(c) Washington state learner's permit;

(d) Current Washington tribal identification; or

(e) Social Security number,

may submit a voter registration application electronically on the secretary of state's website, and provide either the state issued identification number, the tribal identification number, or the last four digits of the person's social security number. ((~~A person who has a valid tribal identification card may submit a voter registration electronically on the secretary of state's website if the secretary of state is able to obtain a copy of the applicant's signature from the federal government or the tribal government.~~))

(2) The applicant must attest to the truth of the information provided on the application and confirm the applicant's United States citizenship by reviewing the registration oath online and affirmatively accepting the information as true.

(3) ((~~The~~)) For applicants using Washington state issued identification, the applicant must affirmatively assent to use of ((~~his or her~~)) the applicant's driver's license((,)) or state identification card((~~, or tribal identification card~~)) signature for voter registration purposes.

(4) For applicants who are not using Washington state issued identification, the applicant must submit a signature image by either submitting a signature image to the secretary of state, or submitting a signature image as part of the confirmation notice process.

(5) A voter registration application submitted electronically is otherwise considered a registration by mail.

(((~~(5)~~))) (6) For each electronic application, the secretary of state must obtain a digital copy of the applicant's driver's license or state identification card signature from the department of licensing, the voter, or tribal identification issuing authority.

(((~~(6)~~))) (7) The secretary of state may employ additional security measures to ensure the accuracy and integrity of voter registration applications submitted electronically.

NEW SECTION. **Sec. 2.** This act takes effect July 15, 2024.

Passed by the Senate April 14, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 364

[Second Substitute Senate Bill 5263]

PSILOCYBIN SERVICES—TASK FORCE AND PILOT PROGRAM

AN ACT Relating to access to psilocybin services by individuals 21 years of age and older; adding a new chapter to Title 18 RCW; creating a new section; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

***NEW SECTION.** Sec. 1. The legislature intends to establish an advisory board, interagency work group, and a task force to provide advice and recommendations on developing a comprehensive regulatory framework for access to regulated psilocybin for Washington residents who are at least 21 years of age.*

**Sec. 1 was vetoed. See message at end of chapter.*

***NEW SECTION.** Sec. 2. The legislature declares that the purposes of this chapter are:*

(1) To develop a long-term strategic plan for ensuring that psilocybin services become and remain a safe, accessible, and affordable option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate or as part of their indigenous religious or cultural practices;

(2) To protect the safety, welfare, health, and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent, and rational way;

(3) To develop a comprehensive regulatory framework concerning psilocybin products and psilocybin services under state law;

(4) To prevent the distribution of psilocybin products to other persons who are not permitted to possess psilocybin products under this chapter including but not limited to persons under 21 years of age; and

(5) To prevent the diversion of psilocybin products from this state to other states.

**Sec. 2 was vetoed. See message at end of chapter.*

***NEW SECTION.** Sec. 3. This chapter may be known and cited as the Washington psilocybin services act.*

**Sec. 3 was vetoed. See message at end of chapter.*

***NEW SECTION.** Sec. 4. (1) The Washington psilocybin advisory board is established within the department of health to provide advice and recommendations to the department of health, the liquor and cannabis board, and the department of agriculture. The Washington psilocybin advisory board shall consist of:*

(a) Members appointed by the governor as specified in subsection (2) of this section;

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

(c) The state health officer or a physician acting as the state health officer's designee;

(d) A representative from the department of health who is familiar with public health programs and public health activities in this state; and

(e) A designee of the public health advisory board.

(2) The governor shall appoint the following individuals to the Washington psilocybin advisory board:

(a) Any four of the following:

(i) A state employee who has technical expertise in the field of public health;

(ii) A local health officer;

(iii) An individual who is a member of, or who represents, a federally recognized Indian tribe in this state;

(iv) An individual who is a member of, or who represents, a body that provides policy advice relating to substance use disorder policy;

(v) An individual who is a member of, or who represents, a body that provides policy advice relating to health equity;

(vi) An individual who is a member of, or who represents, a body that provides policy advice related to palliative care and quality of life; or

(vii) An individual who represents individuals who provide public health services directly to the public;

(b) A military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;

(c) A social worker, mental health counselor, or marriage and family therapist licensed under chapter 18.225 RCW;

(d) A person who has knowledge regarding the indigenous or religious use of psilocybin;

(e) A psychologist licensed under chapter 18.83 RCW who has professional experience engaging in the diagnosis or treatment of a mental, emotional, or behavioral condition;

(f) A physician licensed under chapter 18.71 RCW;

(g) A naturopath licensed under chapter 18.36A RCW;

(h) An expert in the field of public health who has a background in academia;

(i) Any three of the following:

(i) A person who has professional experience conducting scientific research regarding the use of psychedelic compounds in clinical therapy;

(ii) A person who has experience in the field of mycology;

(iii) A person who has experience in the field of ethnobotany;

(iv) A person who has experience in the field of psychopharmacology; or

(v) A person who has experience in the field of harm reduction;

(j) A person designated by the liquor and cannabis board who has experience working with the cannabis central reporting system developed for tracking the transfer of cannabis items;

(k) The attorney general or the attorney general's designee; and

(l) One, two, or three at large members.

(3)(a) Members of the Washington psilocybin advisory board shall serve for a term of four years, but at the pleasure of the governor. Before the expiration of the term of a member, the governor shall appoint a successor whose term begins on January 1st of the following year. A member is eligible for reappointment. If there is a vacancy for any cause, the governor shall make an appointment to become immediately effective for the unexpired term.

(b) Members of the board described in subsection (1)(b) through (e) of this section are nonvoting ex officio members of the board.

(4) A majority of the voting members of the board constitutes a quorum. Official adoption of advice or recommendations by the Washington psilocybin advisory board requires the approval of a majority of the voting members of the board.

(5) The board shall elect one of its voting members to serve as chair.

(6) Until July 1, 2024, the Washington psilocybin advisory board shall meet at least five times a calendar year at a time and place determined by the chair or a majority of the voting members of the board. After July 1, 2024, the

board shall meet at least once every calendar quarter at a time and place determined by the chair or a majority of the voting members of the board. The board may meet at other times and places specified by the call of the chair or of a majority of the voting members of the board.

(7) The Washington psilocybin advisory board may adopt rules necessary for the operation of the board.

(8) The Washington psilocybin advisory board may establish committees and subcommittees necessary for the operation of the board.

(9) The members of the Washington psilocybin advisory board may receive reimbursement or an allowance for expenses within amounts appropriated for that specific purpose consistent with RCW 43.03.220.

Sec. 4 was vetoed. See message at end of chapter.

****NEW SECTION. Sec. 5. (1) An interagency psilocybin work group of the department of health, the liquor and cannabis board, and the department of agriculture is created to provide advice and recommendations to the advisory board on the following:***

(a) Developing a comprehensive regulatory framework for a regulated psilocybin system, including a process to ensure clean and pesticide free psilocybin products;

(b) Reviewing indigenous practices with psilocybin, clinical psilocybin trials, and findings;

(c) Reviewing research of medical evidence developed on the possible use and misuse of psilocybin therapy; and

(d) Ensuring that a social opportunity program is included within any licensing program created under this chapter to remedy the targeted enforcement of drug-related laws on overburdened communities.

(2) The findings of the psilocybin task force in section 6 of this act must be submitted to the interagency work group created in this section and to the psilocybin advisory board.

(3) The interagency psilocybin work group must submit regular updates to the psilocybin advisory board.

Sec. 5 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 6.** (1) The health care authority must establish a psilocybin task force to provide a report on psilocybin services. The director of the health care authority or the director's designee must be a member of the task force and serve as chair. The task force must also include, without limitation, the following members:

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

(b) The director of the liquor and cannabis board or the director's designee; and

(c) As appointed by the director of the health care authority, or the director's designee:

(i) A military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;

(ii) Up to two recognized indigenous practitioners with knowledge of the use of psilocybin or other psychedelic compounds in their communities;

(iii) An individual with expertise in disability rights advocacy;

(iv) A public health practitioner;

(v) Two psychologists with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(vi) Two mental health counselors, marriage and family therapists, or social workers with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(vii) Two physicians with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(viii) A health researcher with expertise in health equity or conducting research on psilocybin;

(ix) A pharmacologist with expertise in psychopharmacology;

(x) A representative of the cannabis industry with knowledge of regulation of medical cannabis and the cannabis business in Washington;

(xi) An advocate from the LGBTQIA community with knowledge of the experience of behavioral health issues within that community;

(xii) A member of the psychedelic medicine alliance of Washington; and

(xiii) Up to two members with lived experience of utilizing psilocybin.

(2) The health care authority must convene the first meeting of the task force by June 30, 2023.

(3) The health care authority must provide a final report to the governor and appropriate committees of the legislature by December 1, 2023, in accordance with RCW 43.01.036. The health care authority may form subcommittees within the task force and adopt procedures necessary to facilitate its work.

(4) The duties of the health care authority in consultation with the task force must include, without limitation, the following activities:

(a) Reviewing the available clinical information around specific clinical indications for use of psilocybin, including what co-occurring diagnoses or medical and family histories may exclude a person from use of psilocybin. Any review of clinical information should:

(i) Discuss populations excluded from existing clinical trials;

(ii) Discuss factors considered when approval of a medical intervention is approved;

(iii) Consider the diversity of participants in clinical trials and the limitations of each study when applying learnings to the population at large; and

(iv) Identify gaps in the clinical research for the purpose of identifying opportunities for investment by the state for the University of Washington, Washington State University, or both to consider studying.

(b) Reviewing and discussing regulatory structures for clinical use of psilocybin in Washington and other jurisdictions nationally and globally. This should include discussing how various regulatory structures do or do not address concerns around public health and safety the task force has identified.

(5) The department of health, liquor and cannabis board, and department of agriculture must provide subject matter expertise and support to the task force and any subcommittee meetings. For the department of health, subject matter expertise includes an individual or individuals with knowledge and experience in rule making, the regulation of health professionals, and the regulation of health facilities.

(6) Meetings of the task force under this section must be open to participation by members of the public.

(7) Task force members participating on behalf of an employer, governmental entity, or other organization 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.

(8) It is the legislature's intent that the provisions of this section supersede section 211(99), chapter 297, Laws of 2022.

(9) This section expires June 30, 2024.

***NEW SECTION.** Sec. 7. (1) The duties, functions, and powers of the department of health specified in this chapter include the following:*

(a) To examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions including, but not limited to, addiction, depression, anxiety disorders, and end-of-life psychological distress, and the potential for psilocybin to promote community, address trauma, and enhance physical and mental wellness;

(b) To adopt, amend, or repeal rules necessary to carry out the intent and provisions of this chapter, including rules that the department of health considers necessary to protect the public health and safety;

(c) To exercise all powers incidental, convenient, or necessary to enable the department of health to administer or carry out this chapter or any other law of this state that charges the department of health with a duty, function, or power related to psilocybin products and psilocybin services. Powers described in this subsection include, but are not limited to:

(i) Issuing subpoenas;

(ii) Compelling the attendance of witnesses;

(iii) Administering oaths;

(iv) Certifying official acts;

(v) Taking depositions as provided by law; and

(vi) Compelling the production of books, payrolls, accounts, papers, records, documents, and testimony.

(2) The jurisdiction, supervision, duties, functions, and powers held by the department of health under this section are not shared by the pharmacy quality assurance commission under chapter 18.64 RCW.

***Sec. 7 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 8.** (1) Subject to amounts appropriated for this purpose, the psilocybin therapy services pilot program is established within, and administered by, the University of Washington department of psychiatry and behavioral sciences. No later than January 1, 2025, the University of Washington department of psychiatry and behavioral sciences must implement this section.

(2) The pilot program must:

(a) Offer psilocybin therapy services through pathways approved by the federal food and drug administration, to populations including first responders and veterans who are:

(i) 21 years of age or older; and

(ii) Experiencing posttraumatic stress disorder, mood disorders, or substance use disorders;

(b) Offer psilocybin therapy services facilitated by:

(i) An advanced social worker, independent clinical social worker, or mental health counselor licensed under chapter 18.225 RCW;

(ii) A physician licensed under chapter 18.71 RCW; or

(iii) A psychiatric advanced registered nurse practitioner licensed under chapter 18.79 RCW as defined in RCW 71.05.020;

(c) Ensure psilocybin therapy services are safe, accessible, and affordable;

(d) Require an initial assessment to understand participant goals and expectations, and assess the participant's history for any concerns that require further intervention or information before receiving psilocybin therapy services, and an integration session after receiving psilocybin therapy services; and

(e) Use outreach and engagement strategies to include participants from communities or demographic groups that are more likely to be historically marginalized and less likely to be included in research and clinical trials represented by race, sex, sexual orientation, socioeconomic status, age, or geographic location.

NEW SECTION. **Sec. 9.** Medical professionals licensed by the state of Washington shall not be subject to adverse licensing action for recommending psilocybin therapy services.

***NEW SECTION.** Sec. 10. (1) The liquor and cannabis board shall assist and cooperate with the department of health and the department of agriculture to the extent necessary to carry out their duties under this chapter.*

(2) The department of agriculture shall assist and cooperate with the department of health to the extent necessary for the department of health to carry out the duties under this chapter.

**Sec. 10 was vetoed. See message at end of chapter.*

***NEW SECTION.** Sec. 11. The department of health, the department of agriculture, and the liquor and cannabis board may not refuse to perform any duty under this chapter on the basis that manufacturing, distributing, dispensing, possessing, or using psilocybin products is prohibited by federal law.*

**Sec. 11 was vetoed. See message at end of chapter.*

NEW SECTION. **Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

***NEW SECTION.** Sec. 13. Sections 1 through 5 and 7 through 11 of this act constitute a new chapter in Title 18 RCW.*

**Sec. 13 was vetoed. See message at end of chapter.*

NEW SECTION. **Sec. 14.** Sections 4 through 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the Senate April 14, 2023.

Passed by the House April 11, 2023.

Approved by the Governor May 9, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 1, 2, 3, 4, 5, 7, 10, 11, and 13, Second Substitute Senate Bill No. 5263 entitled:

"AN ACT Relating to access to psilocybin services by individuals 21 years of age and older."

This bill takes important additional steps in exploring and understanding the potentials of psilocybin by continuing and supplementing the Health Care Authority's existing task force and by establishing a pilot program through the University of Washington.

Psilocybin has been shown to have the potential for use as a therapeutic for certain diagnosed clinical conditions, and I appreciate the need to find new treatment options for Washingtonians.

Sections 1, 2, and 3 detail the intent and purpose of the bill and also establish a short title for the legislation. However, changes were made to the legislation during the legislative process and these sections no longer align with the bill's content.

Section 4 establishes a psilocybin advisory board but does not specify the work that the board would be directed to undertake. In last year's budget, the Legislature established a task force to begin discussing psilocybin as a treatment, and that task force remains in place but has yet to complete its work. This advisory board's role is unclear while the existing task force continues its work. I encourage the Legislature, upon completion of the final report from the task force, to consider appropriate next steps for psilocybin treatment in Washington.

Section 5 establishes an interagency workgroup between the Department of Health, Department of Agriculture, and the Liquor and Cannabis Board to report to the advisory board established in section 4. Without the establishment of the advisory board, this interagency workgroup has no role. However, I understand the value of having our state agencies work together to understand what would be necessary for the state to consider advances in allowing psilocybin therapy. For that reason, I am directing the Department of Health, Department of Agriculture, and the Liquor and Cannabis Board to work together to identify what would be needed, including necessary public health safeguards and information technology systems, to consider allowing psilocybin treatment in Washington state.

Section 7 requires the Department of Health to post to their webpage certain information about psilocybin therapy and it also provides extensive authority for the agency to adopt rules and carry out powers related to psilocybin services. This bill does not establish a system for psilocybin services in Washington and therefore such authorities for the Department of Health are not needed to protect public health and safety.

Section 10 requires the Liquor and Cannabis Board to cooperate with the Departments of Health and Agriculture and for the Department of Agriculture to cooperate with Department of Health. This bill does not establish any activities for these agencies to engage in that may require cooperation as contemplated.

Section 11 prohibits these same state agencies from refusing to fulfill their duties established in this legislation on the basis that psilocybin remains prohibited by federal law. However, there are no required responsibilities for these agencies that would not be able to be conducted due to the prohibition of psilocybin at the federal level.

Section 13 establishes a new chapter for sections 1 through 5. However, sections 1 through 5 are no longer needed.

For these reasons I have vetoed Sections 1, 2, 3, 4, 5, 7, 10, 11, and 13 of Second Substitute Senate Bill No. 5263.

With the exception of Sections 1, 2, 3, 4, 5, 7, 10, 11, and 13, Second Substitute Senate Bill No. 5263 is approved."

CHAPTER 365

[Engrossed Second Substitute Senate Bill 5367]

CANNABIS PRODUCTS—VARIOUS PROVISIONS

AN ACT Relating to the regulation of products containing THC; amending RCW 15.140.020, 69.50.326, and 69.50.346; reenacting and amending RCW 69.50.101; adding a new section to chapter 69.50 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 15.140.020 and 2022 c 16 s 19 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agriculture improvement act of 2018" means sections 7605, 10113, 10114, and 12619 of the agriculture improvement act of 2018, P.L. 115-334.

(2) "Cannabis" has the meaning provided in RCW 69.50.101.

(3) "Crop" means hemp grown as an agricultural commodity.

(4) "Cultivar" means a variation of the plant *Cannabis sativa L.* that has been developed through cultivation by selective breeding.

(5) "Department" means the Washington state department of agriculture.

(6) "Food" has the same meaning as defined in RCW 69.07.010.

(7) "Hemp" means the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(8) "Hemp consumable" means a product that is sold or provided to another person, that is:

(a) Made of hemp;

(b) Not a cannabis product, as defined in RCW 69.50.101; and

(c) Intended to be consumed or absorbed inside the body by any means, including inhalation, ingestion, or insertion.

(9) "Hemp processor" means a person who takes possession of raw hemp material with the intent to modify, package, or sell a transitional or finished hemp product.

((~~(9)~~)) (10)(a) "Industrial hemp" means all parts and varieties of the genera *Cannabis*, cultivated or possessed by a grower, whether growing or not, that contain a tetrahydrocannabinol concentration of 0.3 percent or less by dry weight that was grown under the industrial hemp research program as it existed on December 31, 2019.

(b) "Industrial hemp" does not include plants of the genera *Cannabis* that meet the definition of "cannabis."

((~~(10)~~)) (11) "Postharvest test" means a test of ((~~delta-9~~)) tetrahydrocannabinol concentration levels of hemp after being harvested based on:

(a) Ground whole plant samples without heat applied; or

(b) Other approved testing methods.

((~~(11)~~)) (12) "Process" means the processing, compounding, or conversion of hemp into hemp commodities or products.

((~~(12)~~)) (13) "Produce" or "production" means the planting, cultivation, growing, or harvesting of hemp including hemp seed.

Sec. 2. RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the Washington state liquor and cannabis board.

(d) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis((~~, the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:~~

~~(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or~~

~~(2) Hemp or industrial hemp as defined in RCW 15.140.020,~~)) during the growing cycle through harvest and usable cannabis. "Cannabis" does not include hemp or industrial hemp as defined in RCW 15.140.020, or seeds used for licensed hemp production under chapter 15.140 RCW.

(e) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(f) "Cannabis processor" means a person licensed by the board to process cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products, package and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale in retail outlets, and sell cannabis concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

(g) "Cannabis producer" means a person licensed by the board to produce and sell cannabis at wholesale to cannabis processors and other cannabis producers.

(h)(1) "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section, including any product intended to be consumed or absorbed inside the body by any means including inhalation, ingestion, or insertion, with any detectable amount of THC.

(2) "Cannabis products" also means any product containing only THC content.

(3) "Cannabis products" does not include cannabis health and beauty aids as defined in RCW 69.50.575 or products approved by the United States food and drug administration.

(i) "Cannabis researcher" means a person licensed by the board to produce, process, and possess cannabis for the purposes of conducting research on cannabis and cannabis-derived drug products.

(j) "Cannabis retailer" means a person licensed by the board to sell cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

(k) "Cannabis-infused products" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (d) of this section, and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.

(l) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(m) "CBD product" means any product containing or consisting of cannabidiol.

(n) "Commission" means the pharmacy quality assurance commission.

(o) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

(p)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(q) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

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

(s) "Designated provider" has the meaning provided in RCW 69.51A.010.

(t) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper

selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(u) "Dispenser" means a practitioner who dispenses.

(v) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(w) "Distributor" means a person who distributes.

(x) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(y) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(z) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(aa) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(bb) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(cc) "Isomer" means an optical isomer, but in subsection (gg)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(dd) "Lot" means a definite quantity of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(ee) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product.

(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either

directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(gg) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in (1) through (7) of this subsection.

(hh) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ii) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(jj) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(kk) "Plant" has the meaning provided in RCW 69.51A.010.

(ll) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(nn) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(oo) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(pp) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(qq) "Recognition card" has the meaning provided in RCW 69.51A.010.

(rr) "Retail outlet" means a location licensed by the board for the retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products.

(ss) "Secretary" means the secretary of health or the secretary's designee.

(tt) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(uu) "THC concentration" means percent of ((~~delta-9~~)) tetrahydrocannabinol content ((~~per dry weight~~)) of any part of the plant *Cannabis*, or per volume or weight of cannabis product, or the combined percent of ((~~delta-9~~)) tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(vv) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of

the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(ww) "Useable cannabis" means dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(xx) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

(yy) "Package" means a container that has a single unit or group of units.

(zz) "Unit" means an individual consumable item within a package of one or more consumable items in solid, liquid, gas, or any form intended for human consumption.

Sec. 3. RCW 69.50.326 and 2022 c 16 s 55 are each amended to read as follows:

(1) Licensed cannabis producers and licensed cannabis processors may use a CBD product as an additive for the purpose of enhancing the cannabidiol concentration of any product authorized for production, processing, and sale under this chapter. Except as otherwise provided in subsection (2) of this section, such CBD product additives must be lawfully produced by, or purchased from, a producer or processor licensed under this chapter.

(2) Subject to the requirements set forth in (a) ((~~and (b)~~)) through (c) of this subsection, and for the purpose of enhancing the cannabidiol concentration of any product authorized for production, processing, or sale under this chapter, licensed cannabis producers and licensed cannabis processors may use a CBD product obtained from a source not licensed under this chapter, provided the CBD product:

(a) ((~~Has a THC level of 0.3 percent or less on a dry weight basis; and~~

~~(b)~~)) Is not cannabis, or a cannabis product, as defined in this chapter;

(b) Is not a synthetic cannabinoid; and

(c) Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established under this chapter and the applicable administrative rules.

(3) Subject to the requirements of this subsection (3), the board may enact rules necessary to implement the requirements of this section. Such rule making is limited to regulations pertaining to laboratory testing and product safety standards for those cannabidiol products used by licensed producers and processors in the manufacture of cannabis products marketed by licensed retailers under this chapter. The purpose of such rule making must be to ensure the safety and purity of cannabidiol products used by cannabis producers and processors licensed under this chapter and incorporated into products sold by licensed recreational cannabis retailers. This rule-making authority does not include the authority to enact rules regarding either the production or processing practices of the industrial hemp industry or any cannabidiol products that are sold or marketed outside of the regulatory framework established under this chapter.

Sec. 4. RCW 69.50.346 and 2022 c 16 s 66 are each amended to read as follows:

(1) The label on a cannabis product ((~~container~~)) package, including cannabis concentrates, useable cannabis, or cannabis-infused products, sold at retail must include:

(a) The business or trade name and Washington state unified business identifier number of the cannabis producer and processor;

(b) The lot numbers of the product;

(c) The THC concentration and CBD concentration of the product;

(d) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(e) Language required by RCW 69.04.480; and

(f) A disclaimer, subject to the following conditions:

(i) Where there is one statement made under subsection (2) of this section, or as described in subsection (5)(b) of this section, the disclaimer must state "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."; and

(ii) Where there is more than one statement made under subsection (2) of this section, or as described in subsection (5)(b) of this section, the disclaimer must state "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(2)(a) For cannabis products that have been identified by the department in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant cannabis product, the product label and labeling may include a structure or function claim describing the intended role of a product to maintain the structure or any function of the body, or characterize the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(b) A statement made under (a) of this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(3) The labels and labeling may not be:

(a) False or misleading; or

(b) Especially appealing to children.

(4) The label is not required to include the business or trade name or Washington state unified business identifier number of, or any information about, the cannabis retailer selling the cannabis product.

(5) A cannabis product is not in violation of any Washington state law or rule of the board solely because its label or labeling contains:

(a) Directions or recommended conditions of use; or

(b) A warning describing the psychoactive effects of the cannabis product, provided that the warning is truthful and not misleading.

(6) This section does not create any civil liability on the part of the state, the board, any other state agency, officer, employee, or agent based on a cannabis licensee's description of a structure or function claim or the product's intended role under subsection (2) of this section.

(7) Nothing in this section shall apply to a drug, as defined in RCW 69.50.101, or a pharmaceutical product approved by the United States food and drug administration.

NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Except as otherwise provided in this chapter or as permitted under an agreement between the state and a tribe entered into under RCW 43.06.490, no person may manufacture, sell, or distribute cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products, or any cannabis products without a valid license issued by the board or commission.

(2) Except as permitted under an agreement between the state and a tribe entered into under RCW 43.06.490, any person performing any act requiring a license under this title, without having in force an appropriate and valid license issued to the person, is in violation of this chapter.

(3) The producing, processing, manufacturing, or sale of any synthetically derived, or completely synthetic, cannabinoid is prohibited, except for products approved by the United States food and drug administration.

NEW SECTION. **Sec. 6.** Nothing in this act shall be construed to require any agency to purchase a liquid chromatography-mass spectrometry instrument.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate April 17, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 366

[Substitute Senate Bill 5396]

BREAST EXAMINATIONS—HEALTH PLAN COST SHARING

AN ACT Relating to cost sharing for diagnostic and supplemental breast examinations; amending RCW 48.20.393, 48.21.225, 48.44.325, and 48.46.275; adding a new section to chapter 48.43 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) In 1989 the legislature enacted Substitute House Bill No. 1074 requiring disability insurers, group disability insurers, health care service contractors, health maintenance organizations, and plans offered to public employees that provide benefits for hospital or medical care to provide benefits for screening and diagnostic mammography services.

(2) In 2010 the United States congress enacted the patient protection and affordable care act, which required coverage of certain preventative care services including screening mammograms with no cost sharing.

(3) In 2013 the Washington state office of the insurance commissioner adopted rules establishing the essential health benefits benchmark plan, which listed diagnostic and screening mammogram services as state benefit requirements under preventative and wellness services.

(4) In 2018 the legislature enacted Senate Bill No. 5912 which directed the office of the insurance commissioner to clarify that the existing mandates for mammography included coverage for tomosynthesis, also known as three-dimensional mammography, under the same terms and conditions allowed for mammography.

(5) The legislature intends to establish that the requirements for coverage of mammography services predated the affordable care act and are already included in the state's essential health benefits benchmark plan. Furthermore, the legislature intends to prohibit cost sharing for certain types of breast examinations.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, for nongrandfathered health plans issued or renewed on or after January 1, 2024, that include coverage of supplemental breast examinations and diagnostic breast examinations, health carriers may not impose cost sharing for such examinations.

(2) For a health plan that provides coverage of supplemental breast examinations and diagnostic breast examinations and is offered as a qualifying health plan for a health savings account, the health carrier shall establish the plan's cost sharing for the coverage of the services described in this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from their health savings account under internal revenue service laws and regulations.

(3) For purposes of this section:

(a) "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, digital breast tomosynthesis, also called three dimensional mammography, breast magnetic resonance imaging, or breast ultrasound, that is used to evaluate an abnormality:

(i) Seen or suspected from a screening examination for breast cancer; or

(ii) Detected by another means of examination.

(b) "Supplemental breast examination" means a medically necessary and appropriate examination of the breast, including an examination using breast magnetic resonance imaging or breast ultrasound, that is: (i) Used to screen for breast cancer when there is no abnormality seen or suspected; and

(ii) Based on personal or family medical history, or additional factors that may increase the individual's risk of breast cancer.

Sec. 3. RCW 48.20.393 and 1994 sp.s. c 9 s 728 are each amended to read as follows:

Each disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions, other than the cost-sharing prohibition provided in section 2 of this act, that are applicable to other benefits ((~~such as deductible or copayment provisions~~)). This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography

services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

Sec. 4. RCW 48.21.225 and 1994 sp.s. c 9 s 731 are each amended to read as follows:

Each group disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions, other than the cost-sharing prohibition provided in section 2 of this act, that are applicable to other benefits ((~~such as deductible or copayment provisions~~)). This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

Sec. 5. RCW 48.44.325 and 1994 sp.s. c 9 s 734 are each amended to read as follows:

Each health care service contract issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard contract provisions, other than the cost-sharing prohibition provided in section 2 of this act, that are applicable to other benefits ((~~such as deductible or copayment provisions~~)). This section does not limit the authority of a contractor to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

Sec. 6. RCW 48.46.275 and 1994 sp.s. c 9 s 735 are each amended to read as follows:

Each health maintenance agreement issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

All services must be provided by the health maintenance organization or rendered upon referral by the health maintenance organization. This section shall not be construed to prevent the application of standard agreement provisions, other than the cost-sharing prohibition provided in section 2 of this act, that are applicable to other benefits ((~~such as deductible or copayment provisions~~)). This

section does not limit the authority of a health maintenance organization to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

Passed by the Senate April 18, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 367

[Substitute Senate Bill 5399]

REAL ESTATE—FUTURE LISTING RIGHT PURCHASE CONTRACTS

AN ACT Relating to future listing right purchase contracts; adding a new chapter to Title 61 RCW; creating a new section; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) No future listing right purchase contract shall exceed five years duration and may not be renewed or extended. A future listing right purchase contract:

(a) Shall not be used as a lien against the real property;

(b) Shall not run with title to real property and is not binding or enforceable at law or in equity against any subsequent owner, purchaser, or mortgagee or holder of any interest in real property as an equitable servitude;

(c) May be canceled by the owner without penalty or further obligation within 10 business days after execution of the contract by owner sending notice of cancellation to the other party by mail, telegram, or other means of written communication along with the full amount of any consideration paid to the owner. Notice of cancellation is considered given when mailed, when filed for telegraphic transmission, or, if sent by other means, when delivered to the other party's designated place of business. Such cancellation right shall be set forth clearly in bold type font in the future listing right purchase contract;

(d) Shall set forth clearly in bold type font that the owner may not be compelled to list the owner's property.

(2) The attorney general may bring actions to enforce compliance with this section. The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(3) For the purposes of this section, a "future listing right purchase contract" means a contract granting an exclusive right to list residential real estate for sale in the future and includes, but is not limited to, any document recorded in the county where the real estate is located relating to the contract including the contract itself, a memorandum concerning the contract, or a deed of trust to secure the terms of the contract.

NEW SECTION. **Sec. 2.** (1) The Washington real estate commission established under chapter 18.85 RCW shall convene a work group to examine practices used by real estate brokerage companies to market, establish, and enforce future listing right purchase contracts in order to provide recommendations for consumer protections and potential regulations, including potential licensing requirements. The work group shall be staffed by the department of licensing and include representatives from associations that represent real estate brokers, real estate brokerage companies who offer future listing right purchase contracts, and other entities that the Washington real estate commission deems appropriate. The commission shall report back to the appropriate committees of the legislature in accordance with RCW 43.01.036 by December 1, 2024, with the work group's findings and recommendations.

(2) This section expires July 1, 2025.

NEW SECTION. **Sec. 3.** Section 1 of this act constitutes a new chapter in Title 61 RCW.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 18, 2023.
Passed by the House April 6, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 368

[Second Substitute Senate Bill 5412]

STATE ENVIRONMENTAL POLICY ACT—LOCAL LAND USE—CATEGORICAL EXEMPTIONS—HOUSING

AN ACT Relating to reducing local governments' land use permitting workloads, by ensuring objective and timely design review for housing and other land use proposals within cities and counties and allowing proposed housing within urban growth boundaries to rely on environmental reviews completed at the comprehensive planning level; and amending RCW 43.21C.229.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.21C.229 and 2020 c 87 s 1 are each amended to read as follows:

(1) ((~~In order~~)) The purpose of this section is to accommodate infill and housing development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW((~~, a~~)).

(2) A city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter.((~~ An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a).~~)) An exemption may be adopted by a city or county under this subsection if it meets the following criteria:

(a) It categorically exempts government action related to development proposed to fill in an urban growth area, designated according to RCW 36.70A.110, where current density and intensity of use in the area is roughly

equal to or lower than called for in the goals and policies of the applicable comprehensive plan and the development is either:

(i) Residential development;

(ii) Mixed-use development; or

(iii) Commercial development up to ((~~sixty-five thousand~~)) 65,000 square feet, excluding retail development;

(b) It does not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan;

(c) The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and

(d)(i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption; or

(ii) The city or county has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section.

((~~(2) Any~~)) (3) All project actions that propose to develop one or more residential housing units within the incorporated areas in an urban growth area designated pursuant to RCW 36.70A.110 or middle housing within the unincorporated areas in an urban growth area designated pursuant to RCW 36.70A.110, and that meet the criteria identified in (a) and (b) of this subsection, are categorically exempt from the requirements of this chapter. For purposes of this section, "middle housing" has the same meaning as in RCW 36.70A.030 as amended by chapter . . . (Engrossed Second Substitute House Bill No. 1110), Laws of 2023. Jurisdictions shall satisfy the following criteria prior to the adoption of the categorical exemption under this subsection (3):

(a) The city or county shall find that the proposed development is consistent with all development regulations implementing an applicable comprehensive plan adopted according to chapter 36.70A RCW by the jurisdiction in which the development is proposed, with the exception of any development regulation that is inconsistent with applicable provisions of chapter 36.70A RCW; and

(b) The city or county has prepared environmental analysis that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section and analyzes multimodal transportation impacts, including impacts to neighboring jurisdictions, transit facilities, and the state transportation system.

(i) Such environmental analysis shall include documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted. The requirements may be addressed in locally adopted comprehensive plans, subarea plans, adopted development regulations, other applicable local ordinances and regulations, or applicable state and federal regulations. The city or county must document its consultation with the

department of transportation on impacts to state-owned transportation facilities including consideration of whether mitigation is necessary for impacts to transportation facilities.

(ii) Before finalizing the environmental analysis pursuant to (b)(i) of this subsection (3), the city or county shall provide a minimum of 60 days' notice to affected tribes, relevant state agencies, other jurisdictions that may be impacted, and the public. If a city or county identifies that mitigation measures are necessary to address specific probable adverse impacts, the city or county must address those impacts by requiring mitigation identified in the environmental analysis pursuant to this subsection (3)(b) through locally adopted comprehensive plans, subarea plans, development regulations, or other applicable local ordinances and regulations. Mitigation measures shall be detailed in an associated environmental determination.

(iii) The categorical exemption is effective 30 days following action by a city or county pursuant to (b)(ii) of this subsection (3).

(4) Until September 30, 2025, all project actions that propose to develop one or more residential housing or middle housing units within a city west of the crest of the Cascade mountains with a population of 700,000 or more are categorically exempt from the requirements of this chapter. After September 30, 2025, project actions that propose to develop one or more residential housing or middle housing units within the city may utilize the categorical exemption in subsection (3) of this section.

(5) Any categorical exemption adopted by a city or county under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). Nothing in this section shall invalidate categorical exemptions or environmental review procedures adopted by a city or county under a planned action pursuant to RCW 43.21C.440. However, any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department.

Passed by the Senate April 22, 2023.
Passed by the House April 17, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 369

[Substitute Senate Bill 5437]

SPECIAL PURPOSE DISTRICTS—GOVERNING BODY VACANCIES

AN ACT Relating to vacancies of the governing body of special purpose districts; amending RCW 42.12.070, 43.06.010, and 70.44.056; and adding a new section to chapter 42.12 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.12.070 and 2013 c 11 s 89 are each amended to read as follows:

A vacancy on an elected nonpartisan governing body of a qualifying special purpose district ((~~where property ownership is not a qualification to vote~~)), a town, or a city other than a first-class city or a charter code city, shall be filled as

follows unless the provisions of law relating to the qualifying special purpose district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or qualifying special purpose district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or qualifying special purpose district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or qualifying special purpose district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in chapter 29A.24 RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

(7) For purposes of this section, "qualifying special purpose district" means a fire protection district created under chapter 52.02 RCW with assessed values under $5,000,000,000 and a regional fire protection service authority created under chapter 52.26 RCW with assessed values under $5,000,000,000.

NEW SECTION. **Sec. 2.** A new section is added to chapter 42.12 RCW to read as follows:

A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote or that is not a qualifying special purpose district defined in RCW 42.12.070, shall be filled as follows unless the provisions of law relating to the special purpose district provide otherwise:

(1) After a vacancy occurs, the remaining members of the governing body must nominate at least one candidate at a meeting of the governing body. The governing body must then cause notice of the vacancy and the name of the nominated candidate or candidates to be posted in three public places in the

special purpose district, including on the district's website if the district has a website, for a minimum of 15 days. During the notice period, registered voters who reside in the special purpose district may submit nominations to the remaining members of the governing body.

(2) After the notice period described in subsection (1) of this section, the remaining members of the governing body shall appoint a qualified person to fill the vacant position from the candidates nominated by either the governing body or the public at a meeting of the governing body.

(3) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions under the nomination process described in subsection (1) of this section, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position under the nomination process described in subsection (1) of this section, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(4) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the special purpose district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(5) If a governing body fails to appoint a qualified person to fill a vacancy within 90 days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the special purpose district is located shall appoint a qualified person to fill the vacancy.

(6) If the county legislative authority of the county fails to appoint a qualified person within 180 days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the special purpose district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(7) As provided in chapter 29A.24 RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

Sec. 3. RCW 43.06.010 and 2014 c 202 s 305 are each amended to read as follows:

In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, including as provided in RCW 42.12.070 and section 2 of this act, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of the prosecutor's duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor may, after finding that there exists within this state an imminent danger of infestation of plant pests as defined in RCW 17.24.007 or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides;

(14) The governor, after finding that a prohibited level 1 or level 2 species as defined in chapter 77.135 RCW has been detected and after finding that the detected species seriously endangers or threatens the environment, economy, human health, or well-being of the state of Washington, may order emergency measures to prevent or abate the prohibited species, which measures, after thorough evaluation of all other alternatives, may include the surface or aerial application of pesticides;

(15) On all compacts forwarded to the governor pursuant to RCW 9.46.360(6), the governor is authorized and empowered to execute on behalf of

the state compacts with federally recognized Indian tribes in the state of Washington pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III gaming, as defined in the Act, on Indian lands.

Sec. 4. RCW 70.44.056 and 2015 c 53 s 94 are each amended to read as follows:

In all existing public hospital districts in which an increase in the number of district commissioners is proposed, the additional commissioner positions shall be deemed to be vacant and the board of commissioners of the public hospital district shall appoint qualified persons to fill those vacancies in accordance with ((~~RCW 42.12.070~~)) section 2 of this act.

Each person who is appointed shall serve until a qualified person is elected at the next general election of the district occurring one hundred twenty days or more after the date of the election at which the voters of the district approved the ballot proposition authorizing the increase in the number of commissioners. If needed, special filing periods shall be authorized as provided in RCW 29A.24.171 and 29A.24.181 for qualified persons to file for the vacant office. A primary shall be held to nominate candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, no primary shall be held and the candidate receiving the greatest number of votes for each position shall be elected. Except for the initial terms of office, persons elected to each of these additional commissioner positions shall be elected to a six-year term. The newly elected commissioners shall assume office as provided in RCW 29A.60.280.

The initial terms of the new commissioners shall be staggered as follows: (1) When the number of commissioners is increased from three to five, the person elected receiving the greatest number of votes shall be elected to a six-year term of office, and the other person shall be elected to a four-year term; (2) when the number of commissioners is increased from three or five to seven, the terms of the new commissioners shall be staggered over the next three district general elections so that two commissioners will be elected at the first district general election following the election where the additional commissioners are elected, two commissioners will be at the second district general election after the election of the additional commissioners, and three commissioners will be elected at the third district general election following the election of the additional commissioners, with the persons elected receiving the greatest number of votes elected to serve the longest terms.

Passed by the Senate April 18, 2023.

Passed by the House April 6, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 370

[Second Substitute Senate Bill 5454]

WORKERS' COMPENSATION—POSTTRAUMATIC STRESS DISORDER—REGISTERED NURSES

AN ACT Relating to industrial insurance coverage for posttraumatic stress disorders affecting registered nurses; amending RCW 51.08.142; adding a new section to chapter 51.32 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.08.142 and 2020 c 234 s 1 are each amended to read as follows:

(1) Except as provided in ((~~subsection~~)) subsections (2) and (3) of this section, the department shall adopt a rule pursuant to chapter 34.05 RCW that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease in RCW 51.08.140.

(2)(a) Except as provided in (b) and (c) of this subsection, the rule adopted under subsection (1) of this section shall not apply to occupational disease claims resulting from posttraumatic stress disorders of firefighters as defined in RCW 41.26.030(17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(19) (b), (c), and (e), and public safety telecommunicators who receive calls for assistance and dispatch emergency services.

(b) For firefighters as defined in RCW 41.26.030(17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(19) (b), (c), and (e) hired after June 7, 2018, and public safety telecommunicators hired after June 11, 2020, (a) of this subsection only applies if the firefighter or law enforcement officer or public safety telecommunicators, as a condition of employment, has submitted to a psychological examination administered by a psychiatrist licensed in the state of Washington under chapter 18.71 RCW or a psychologist licensed in the state of Washington under chapter 18.83 RCW that ruled out the presence of posttraumatic stress disorder from preemployment exposures. If the employer does not provide the psychological examination, (a) of this subsection applies.

(c) Posttraumatic stress disorder for purposes of ((~~this subsection~~)) subsections (2) and (3) of this section is not considered an occupational disease if the disorder is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer.

(d) "Public safety telecommunicators" means individuals who receive and respond to telephone or other electronic requests for emergency assistance, such as law enforcement, fire, and medical services, and dispatch appropriate emergency responders.

(3)(a) Except as provided in this subsection, the rule adopted under subsection (1) of this section shall not apply to occupational disease claims resulting from posttraumatic stress disorders of direct care registered nurses as defined in section 2 of this act.

(b) The limitation in subsection (2)(c) of this section also applies to this subsection (3).

(c) This subsection (3) applies only to a direct care registered nurse who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a direct care registered nurse in Washington state for at least 90 consecutive days.

NEW SECTION. **Sec. 2.** A new section is added to chapter 51.32 RCW to read as follows:

(1) In the case of direct care registered nurses covered under this title who are employed on a fully compensated basis, there exists a prima facie presumption that posttraumatic stress disorder is an occupational disease under RCW 51.08.140. This section applies only to a direct care registered nurse who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a direct care registered nurse in Washington state for at least 90 consecutive days.

(2) The presumption may be rebutted by a preponderance of the evidence.

(3) The presumption extends to a claimant following termination of employment for a period of three calendar months for each year the claimant was a direct care registered nurse employed on a fully compensated basis, but may not extend more than 60 months following the last date of employment.

(4)(a) When a determination involving the presumption established under this section is appealed to the board of industrial insurance appeals and the final decision allows the claim for benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the claimant or his or her beneficiary by the opposing party.

(b) When determination involving the presumption established under this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the claimant or his or her beneficiary by the opposing party.

(c) When reasonable costs of the appeal must be paid by the department under this section in a state fund case, the costs shall be paid from the accident fund and charged to the costs of the claim.

(5) For purposes of this section, "direct care registered nurse" means an individual licensed as a nurse under chapter 18.79 RCW who provides direct care to patients.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2024.

Passed by the Senate April 18, 2023.

Passed by the House April 7, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 371

[Substitute Senate Bill 5460]

IRRIGATION AND REHABILITATION DISTRICTS—ASSESSMENTS

AN ACT Relating to collection of assessments for irrigation and rehabilitation districts; amending RCW 87.84.070; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the Moses Lake irrigation and rehabilitation district is the only district of its kind in Washington state. The district was recently involved in litigation regarding the way the district collected assessments. The district was assessing a total amount of $1.00 per $1,000.00 of assessed value within the district, including $0.25 per $1,000.00 of assessed value pursuant to statutory provisions for irrigation and rehabilitation districts and an additional $0.75 per $1,000.00 of assessed value pursuant to statutory provisions for irrigation districts. The court found that the method of collection under the statutory provisions for irrigation districts was an invalid tax. Therefore, the legislature finds that it is necessary to align assessment authority with other local special improvement districts in order to provide local funding, limited to $1.00 per $1,000.00 of assessed value within the district, for improvements to local water quality.

Sec. 2. RCW 87.84.070 and 2013 c 23 s 531 are each amended to read as follows:

(1)(a) The directors ((~~shall be empowered to specially assess land located in the district for benefits thereto taking as a basis the last equalized assessment for county purposes: PROVIDED, That such assessment shall not exceed twenty-five cents per thousand dollars of assessed value upon such assessed valuation without securing authorization by vote of the electors of the district at an election called for that purpose.~~

~~The board shall give notice of such an election, for the time and in the manner and form provided for irrigation district elections. The manner of conducting and voting at such an election, opening and closing polls, canvassing the votes, certifying the returns, and declaring the result shall be nearly as practicable the same as in irrigation district elections.~~

~~The special assessment provided for herein shall be due and payable at such times and in such amounts as designated by the district directors, which designation shall be made to the county auditor in writing, and the amount so designated shall be added to the general taxes, and entered upon the assessment rolls in his or her office, and collected therewith~~)) of the district shall annually determine the amount of money necessary to carry on the rehabilitation operations of the district and shall classify the property therein in proportion to the benefits to be derived from the rehabilitation operations of the district and in accordance with such classification shall apportion and assess the several lots, blocks, tracts, and parcels of land or other property within the district, which assessment shall be collected with the general taxes of the county or counties. The district budget for rehabilitation purposes shall not exceed an amount equal to $1 per $1,000 of the assessed aggregate valuation of all property within the district unless authorized to exceed that amount by the electors of the district by a majority of those voting on the proposition at such time as may be fixed by the board of directors of the district at which election the proposition authorizing the

district to exceed that limit shall be submitted in such form as to enable the voters favoring the proposition to vote "Yes" and those opposing to vote "No."

(b) A district may use the assessed valuation of property as a component in determining the district assessment of any class of lots, but when property has been designated as forestland, farm and agricultural land, or open space land under chapter 84.33 or 84.34 RCW, the district must use the assessed value applicable to forestland, farm and agricultural land, or open space land.

(c) If a district uses a fractional amount of assessed value as a component in determining the district assessment, then a fractional amount of the value applicable to forestland, farm and agricultural land, or open space land under chapter 84.33 or 84.34 RCW, if designated in the county tax records for the particular property, shall be used.

(2) The district shall provide notice of the proposed assessments and hold an equalization hearing as provided for in chapter 87.03 RCW. The provisions of chapters 84.56 and 84.64 RCW and RCW 36.29.180 governing liens, collection, payment of assessments, delinquent assessments, interest and penalties, lien foreclosure, and foreclosed property shall govern such matters as applied.

Passed by the Senate April 18, 2023.
Passed by the House April 5, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 372

[Substitute Senate Bill 5491]

MULTIFAMILY RESIDENTIAL STRUCTURES—SINGLE EXIT—ADVISORY GROUP

AN ACT Relating to allowing for residential buildings of a certain height to be served by a single exit under certain conditions; and adding a new section to chapter 19.27 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 19.27 RCW to read as follows:

(1) The state building code council shall convene a technical advisory group for the purpose of recommending modifications and limitations to the international building code that would allow for a single exit stairway to serve multifamily residential structures up to six stories above grade plane. The recommendations must include considerations for adequate and available water supply, the presence and response time of a professional fire department, and any other provisions necessary to ensure public health, safety, and general welfare.

(2) The technical advisory group shall provide its recommendations to the council in time for the council to adopt or amend rules or codes as necessary for implementation in the 2024 international building code. The council shall take action to adopt additions and amendments to rules or codes as necessary by July 1, 2026.

Passed by the Senate April 18, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 373

[Engrossed Substitute Senate Bill 5528]

PRIVATE CONSTRUCTION PROJECTS—RETAINAGE

AN ACT Relating to retainage requirements for private construction projects; and adding a new chapter to Title 60 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) An owner, contractor, or subcontractor may withhold as retainage an amount equal to not more than five percent of the contract price of the work completed for private construction projects. Partial payment allowed under this subsection is not acceptance or approval of some of the work or a waiver of defects in the work.

(2) The owner, contractor, or subcontractor shall pay interest at the rate of one percent per month on the final payment due the contractor or subcontractor. The interest shall commence 30 days after the contractor or subcontractor has completed and the owner has accepted the work under the contract for construction for which the final payment is due. The interest shall run until the date when final payment is tendered to the contractor or subcontractor.

(3) When the contractor or subcontractor considers the work that the contractor or subcontractor is contracted to perform to be complete, the contractor or subcontractor shall notify the party to whom the contractor or subcontractor is responsible for performing the construction work under the contract.

(4) The party shall, within 15 days after receiving the notice, either accept the work or notify the contractor or subcontractor of work yet to be performed under the contract or subcontract. If the party does not accept the work or does not notify the contractor or subcontractor of work yet to be performed within the time allowed, the interest required under this subsection shall commence 30 days after the end of the 15-day period. A contractor may provide notice under this subsection to an owner or upper-tier contractor for release of retainage due to a subcontractor whose work is complete. If an owner or upper-tier contractor does not accept the subcontractor's work or does not notify the contractor of work yet to be performed by the subcontractor within 15 days after receiving the notice, the interest required under this section shall commence 30 days after the end of the 15-day period. A contractor's obligation to pay interest to a subcontractor under this section does not begin until the contractor has received payment for the subcontractor's retainage provided that the contractor has submitted the subcontractor's retainage request to the owner or upper-tier contractor within 30 days after receipt from the subcontractor.

(5) This section does not apply to single-family residential construction less than 12 units.

NEW SECTION. **Sec. 2.** (1) In lieu of retainage, a subcontractor or contractor may tender, and a contractor or owner must accept, a retainage bond in an amount not to exceed five percent of the moneys earned by the subcontractor or contractor.

(2) A subcontractor or contractor must provide a good and sufficient bond from an authorized surety company, conditioned that such person or persons must:

(a) Faithfully perform all the provisions of such contract;

(b) Pay all laborers, mechanics, and subcontractors and material suppliers, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work; and

(c) Pay the taxes, increases, and penalties incurred on the project.

(3) The contractor or owner may require that the authorized surety have a minimum A.M. Best financial strength rating so long as that minimum rating does not exceed A-. The contractor may withhold the subcontractor's portion of the bond premium, to the extent the contractor provides a retainage bond to obtain a release of the subcontractor's retainage.

(4) The contractor or owner must accept a bond meeting the requirements of this section. The subcontractor or contractor's bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in the contract and other applicable provisions.

(5) Whenever an owner accepts a bond in lieu of retained funds from a contractor, the contractor must accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor must then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within 30 days of accepting the bond from the subcontractor or supplier.

(6) This section does not apply to single-family residential construction less than 12 units.

NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act only apply to private construction projects and do not apply to public improvement contracts, as defined in RCW 60.28.011.

NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act constitute a new chapter in Title 60 RCW.

Passed by the Senate April 18, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 374

[Substitute Senate Bill 5565]

TAXES AND REVENUE—VARIOUS PROVISIONS

AN ACT Relating to modifying tax and revenue laws by making technical corrections, clarifying ambiguities, easing compliance burdens for taxpayers, and providing administrative efficiencies; amending RCW 19.150.060, 19.150.080, 19.240.080, 19.240.900, 35.90.020, 59.18.312, 59.18.595, 63.30.040, 82.04.4489, 82.14.070, 82.32.045, 82.32.105, 82.60.020, 82.60.049, 82.60.060, 82.60.070, 82.70.900, 82.73.030, 82.90.080, 84.52.120, 84.52.816, 88.02.620, and 88.26.020; reenacting and amending RCW 82.08.0206; creating a new section; repealing RCW 82.12.02088, 82.27.060, and 82.70.050; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.150.060 and 2016 sp.s. c 6 s 1 are each amended to read as follows:

(1) If a notice has been sent, as required by RCW 19.150.040, and the total sum due has not been paid as of the date specified in the preliminary lien notice, the lien proposed by this notice attaches as of that date and the owner may deny an occupant access to the space, enter the space, inventory the goods therein, and

remove any property found therein to a place of safe keeping. The owner must provide the occupant a notice of final lien sale or final notice of disposition by personal service, verified mail, or email to the occupant's last known address and alternative address or email address. If the owner sends notice required under this section to the occupant's last known email address and does not receive a reply or receipt of delivery, the owner must send a second notice to the occupant's last known postal address by verified mail. The notice required under this section must state all of the following:

(a) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.

(b) That the stored property is subject to a lien, and the amount of the lien accrued and to accrue prior to the date required to be specified in (c) of this subsection.

(c) That all the property, other than personal papers and personal photographs, may be sold to satisfy the lien after a specified date which is not less than ((~~fourteen~~)) 14 days from the last date of sending of the final lien sale notice, or a minimum of ((~~forty-two~~)) 42 days after the date when any part of the rent or other charges due from the occupants remain unpaid, whichever is later, unless the amount of the lien is paid. The owner is not required to sell the personal property within a maximum number of days of when the rent or other charges first became due. If the total value of property in the storage space is less than three hundred dollars, the owner may, instead of sale, dispose of the property in any reasonable manner, subject to the restrictions of RCW 19.150.080(4). After the sale or other disposition pursuant to this section has been completed, the owner shall provide an accounting of the disposition of the proceeds of the sale or other disposition to the occupant at the occupant's last known address and at the alternative address.

(d) That any stored vehicles, watercraft, trailers, recreational vehicles, or campers may be towed or removed from the self-service storage facility in lieu of sale pursuant to RCW 19.150.160.

(e) That any excess proceeds of the sale or other disposition under RCW 19.150.080(2) over the lien amount and reasonable costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of six months from the sale and that thereafter the proceeds will be turned over to the state as abandoned property as provided in chapter 63.30 RCW ((~~63.29.165~~)).

(f) That any personal papers and personal photographs will be retained by the owner and may be reclaimed by the occupant at any time for a period of six months from the sale or other disposition of property and that thereafter the owner may dispose of the personal papers and photographs in a reasonable manner, subject to the restrictions of RCW 19.150.080(3).

(g) That the occupant has no right to repurchase any property sold at the lien sale.

(2) The owner may not send by email the notice required under this section to the occupant's last known address or alternative address unless:

(a) The occupant expressly agrees to notice by email;

(b) The rental agreement executed by the occupant specifies in bold type that notices will be given to the occupant by email;

(c) The owner provides the occupant with the email address from which notices will be sent and directs the occupant to modify his or her email settings to allow email from that address to avoid any filtration systems; and

(d) The owner notifies the occupant of any change in the email address from which notices will be sent prior to the address change.

***Sec. 2. RCW 19.150.080 and 2007 c 113 s 5 are each amended to read as follows:**

***(1) After the expiration of the time given in the final notice of lien sale pursuant to RCW 19.150.060, the property, other than personal papers and personal photographs, may be sold or disposed of in a reasonable manner as provided in this section.**

***(2)(a) If the property has a value of ((~~three hundred dollars~~)) $300 or more, the sale shall be conducted in a commercially reasonable manner, and, after applying the proceeds to costs of the sale and then to the amount of the lien, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at any time within six months of the date of sale.**

***(b) If the property has a value of less than ((~~three hundred dollars~~)) $300, the property may be disposed of in a reasonable manner.**

***(3) Personal papers and personal photographs that are not reclaimed by the occupant within six months of a sale under subsection (2)(a) of this section or other disposition under subsection (2)(b) of this section may be disposed of in a reasonable manner.**

***(4) No employee or owner, or family member of an employee or owner, may acquire, directly or indirectly, the property sold pursuant to subsection (2)(a) of this section or disposed of pursuant to subsection (2)(b) of this section, or personal papers and personal photographs disposed of under subsection (3) of this section.**

***(5) The owner is entitled to retain any interest earned on the excess proceeds until the excess proceeds are claimed by another person or are turned over to the state as abandoned property pursuant to chapter 63.30 RCW ((~~63.29.165~~)).**

***Sec. 2 was vetoed. See message at end of chapter.**

***Sec. 3. RCW 19.240.080 and 2004 c 168 s 9 are each amended to read as follows:**

***An issuer is not required to honor a gift certificate presumed abandoned under chapter 63.30 RCW ((~~63.29.110,~~)) if it is reported((~~,~~)) and delivered to the department of revenue in the dissolution of a business association.**

***Sec. 3 was vetoed. See message at end of chapter.**

***Sec. 4. RCW 19.240.900 and 2004 c 168 s 18 are each amended to read as follows:**

***Sections 1 through 12 of this act apply to:**

***(1) Gift certificates issued on or after July 1, 2004; and**

***(2) Those gift certificates presumed abandoned on or after July 1, 2004, and not reported as provided in chapter 63.30 RCW ((~~63.29.170(4)~~)).**

***Sec. 4 was vetoed. See message at end of chapter.**

Sec. 5. RCW 35.90.020 and 2020 c 139 s 59 are each amended to read as follows:

(1) Except as otherwise provided in subsection (7) of this section, a city that requires a general business license of any person that engages in business activities within that city must partner with the department to have such license issued, and renewed if the city requires renewal, through the business licensing service in accordance with chapter 19.02 RCW.

(a) Except as otherwise provided in subsection (3) of this section, the department must phase in the issuance and renewal of general business licenses of cities that required a general business license as of July 1, 2017, and are not already partnering with the department, as follows:

(i) Between January 1, 2018, and December 31, 2021, the department must partner with at least six cities per year;

(ii) Between January 1, 2022, and December 31, 2027, the department must partner with the remaining cities; or

(iii) Between July 1, 2017 and December 31, 2022, the department must partner with all cities requiring a general business license if specific funding for the purposes of this subsection (1)(a)(iii) is appropriated in the omnibus appropriations act.

(b) A city that imposes a general business license requirement and does not partner with the department as of January 1, 2018, may continue to issue and renew its general business licenses until the city partners with the department as provided in subsection (4) of this section.

(2)(a) A city that did not require a general business license as of July 1, 2017, but imposes a new general business license requirement after that date must advise the department in writing of its intent to do so at least ((~~ninety~~)) 90 days before the requirement takes effect.

(b) If a city subject to (a) of this subsection (2) imposes a new general business license requirement after July 1, 2017, the department, in its sole discretion, may adjust resources to partner with the imposing city as of the date that the new general business licensing requirement takes effect. If the department cannot reallocate resources, the city may issue and renew its general business license until the department is able to partner with the city.

(3) The department may delay assuming the duties of issuing and renewing general business licenses beyond the dates provided in subsection (1)(a) of this section if:

(a) Insufficient funds are appropriated for this specific purpose;

(b) The department cannot ensure the business licensing system is adequately prepared to handle all general business licenses due to unforeseen circumstances;

(c) The department determines that a delay is necessary to ensure that the transition to mandatory department issuance and renewal of general business licenses is as seamless as possible; or

(d) The department receives a written notice from a city within ((~~sixty~~)) 60 days of the date that the city appears on the department's biennial partnership plan, which includes an explanation of the fiscal or technical challenges causing the city to delay joining the system. A delay under this subsection (3)(d) may be for no more than three years.

(4)(a) In consultation with affected cities and in accordance with the priorities established in subsection (5) of this section, the department must establish a biennial plan for partnering with cities to assume the issuance and renewal of general business licenses as required by this section. The plan must identify the cities that the department will partner with and the dates targeted for the department to assume the duties of issuing and renewing general business licenses.

(b) By January 1, 2018, and January 1st of each even-numbered year thereafter until the department has partnered with all cities that currently impose a general business license requirement and that have not declined to partner with the department under subsection (7) of this section, the department must submit the partnering plan required in (a) of this subsection (4) to the governor; legislative fiscal committees; house local government committee; senate financial institutions, economic development and trade committee; senate local government committee; affected cities; association of Washington cities; association of Washington business; national federation of independent business; and Washington retail association.

(c) The department may, in its sole discretion, alter the plan required in (a) of this subsection (4) with a minimum notice of ((~~thirty~~)) 30 days to affected cities.

(5) When determining the plan to partner with cities for the issuance and renewal of general business licenses as required in subsection (4) of this section, cities that notified the department of their wish to partner with the department before January 1, 2017, must be allowed to partner before other cities.

(6) A city that partners with the department for the issuance and renewal of general business licenses through the business licensing service in accordance with chapter 19.02 RCW may not issue and renew those licenses.

(7)(a) Except as provided in (b) of this subsection, a city may decline to partner with the department for the issuance and renewal of a general business license as provided in subsection (1) of this section if the city participates in the online local business license and tax filing portal known as "FileLocal" as of July 1, 2020.

(b) A city that receives at least ((~~one million nine hundred fifty thousand dollars~~)) $1,950,000 in fiscal year 2020 for temporary streamlined sales tax mitigation under the 2019 omnibus appropriations act, section 722, chapter 415, Laws of 2019, may decline to partner with the department for the issuance and renewal of a general business license as provided in subsection (1) of this section if the city participates in FileLocal as of July 1, 2021.

(c) For the purposes of this subsection (7), a city is considered to be a FileLocal participant as of the date that a business may access FileLocal for purposes of applying for or renewing that city's general business license and reporting and paying that city's local business and occupation taxes. A city that ceases participation in FileLocal after July 1, 2020, or July 1, 2021, in the case of a city eligible for the extension under (b) of this subsection, must partner with the department for the issuance and renewal of its general business license as provided in subsection (1) of this section.

(((~~(8) By January 1, 2019, and each January 1st thereafter through January 1, 2028, the department must submit a progress report to the legislature. The report required by this subsection must provide information about the progress of the~~

~~department's efforts to partner with all cities that impose a general business license requirement and include:~~

~~(a) A list of cities that have partnered with the department as required in subsection (1) of this section;~~

~~(b) A list of cities that have not partnered with the department;~~

~~(c) A list of cities that are scheduled to partner with the department during the upcoming calendar year;~~

~~(d) A list of cities that have declined to partner with the department as provided in subsection (7) of this section;~~

~~(e) An explanation of lessons learned and any process efficiencies incorporated by the department;~~

~~(f) Any recommendations to further simplify the issuance and renewal of general business licenses by the department; and~~

~~(g) Any other information the department considers relevant.~~))

Sec. 6. RCW 59.18.312 and 2011 c 132 s 17 are each amended to read as follows:

(1) A landlord shall, upon the execution of a writ of restitution by the sheriff, enter and take possession of any property of the tenant found on the premises. The landlord may store the property in any reasonably secure place, including the premises, and sell or dispose of the property as provided under subsection (3) of this section. The landlord must store the property if the tenant serves a written request to do so on the landlord or the landlord's representative by any of the methods described in RCW 59.18.365 no later than three days after service of the writ. A landlord may elect to store the property without such a request unless the tenant or the tenant's representative objects to the storage of the property. If the tenant or the tenant's representative objects to the storage of the property or the landlord elects not to store the property because the tenant has not served a written request on the landlord to do so, the property shall be deposited upon the nearest public property and may not be stored by the landlord. If the landlord knows that the tenant is a person with a disability as defined in RCW 49.60.040 (as amended by chapter 317, Laws of 2007) and the disability impairs or prevents the tenant or the tenant's representative from making a written request for storage, it must be presumed that the tenant has requested the storage of the property as provided in this section unless the tenant objects in writing.

(2) Property stored under this section shall be returned to the tenant after the tenant has paid the actual or reasonable drayage and storage costs, whichever is less, or until it is sold or disposed of by the landlord in accordance with subsection (3) of this section.

(3) Prior to the sale of property stored pursuant to this section with a cumulative value of over ((~~two hundred fifty dollars~~)) $250, the landlord shall notify the tenant of the pending sale. After ((~~thirty~~)) 30 days from the date the notice of the sale is mailed or personally delivered to the tenant's last known address, the landlord may sell the property, including personal papers, family pictures, and keepsakes, and dispose of any property not sold.

If the property that is being stored has a cumulative value of ((~~two hundred fifty dollars~~)) $250 or less, then the landlord may sell or dispose of the property in the manner provided in this section, except for personal papers, family pictures, and keepsakes. Prior to the sale or disposal of property stored

pursuant to this section with a cumulative value of ((~~two hundred fifty dollars~~)) $250 or less, the landlord shall notify the tenant of the pending sale or disposal. The notice shall either be mailed to the tenant's last known address or personally delivered to the tenant. After seven days from the date the notice is mailed or delivered to the tenant, the landlord may sell or dispose of the property.

The landlord may apply any income derived from the sale of the tenant's property against moneys due the landlord for drayage and storage of the property. The amount of sale proceeds that the landlord may apply towards such costs may not exceed the actual or reasonable costs for drayage and storage of the property, whichever is less. Any excess income derived from the sale of such property shall be held by the landlord for the benefit of the tenant for a period of one year from the date of the sale. If no claim is made or action commenced by the tenant for the recovery of the excess income prior to the expiration of that period of time, then the balance shall be treated as abandoned property and deposited by the landlord with the department of revenue pursuant to chapter ((~~63.29~~)) 63.30 RCW.

(4) Nothing in this section shall be construed as creating a right of distress for rent.

(5) When serving a tenant with a writ of restitution pursuant to RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice to the tenant that: (a) Upon execution of the writ, the landlord must store the tenant's property only if the tenant serves a written request on the landlord to do so no later than three days after service of the writ; (b) the notice to the landlord requesting storage may be served by personally delivering or mailing a copy of the request to the landlord at the address identified in, or by facsimile to the facsimile number listed on, the form described under subsection (6) of this section; (c) if the tenant has not made such a written request to the landlord, the landlord may elect to either store the tenant's property or place the tenant's property on the nearest public property unless the tenant objects; (d) if the property is stored, it may not be returned to the tenant unless the tenant pays the actual or reasonable costs of drayage and storage, whichever is less, within ((~~thirty~~)) 30 days; (e) if the tenant or the tenant's representative objects to storage of the property, it will not be stored but will be placed on the nearest public property; and (f) the landlord may sell or otherwise dispose of the property as provided in subsection (3) of this section if the landlord provides written notice to the tenant first.

(6) When serving a tenant with a writ of restitution under subsection (5) of this section, the sheriff shall also serve the tenant with a form provided by the landlord that can be used to request the landlord to store the tenant's property, which must be substantially in the following form:

REQUEST FOR STORAGE OF PERSONAL PROPERTY

. . . . . .
Name of Plaintiff

. . . . . .
Name(s) of Tenant(s)

I/we hereby request the landlord to store our personal property. I/we understand that I/we am/are responsible for the actual or reasonable costs of moving and storing the property, whichever is less. If I/we fail to pay these costs, the landlord may sell or dispose of the property pursuant to and within the time frame permitted under RCW 59.18.312(3).

Any notice of sale required under RCW 59.18.312(3) must be sent to the tenants at the following address:

. . . . . .
. . . . . .
. . . . . .

IF NO ADDRESS IS PROVIDED, NOTICE OF SALE WILL BE SENT TO THE LAST KNOWN ADDRESS OF THE TENANT(S)

Dated: . . . . . .

. . . . . .
Tenant-Print Name

. . . . . .
Tenant-Print Name

This notice may be delivered or mailed to the landlord or the landlord's representative at the following address:

. . . . . .
. . . . . .
. . . . . .

This notice may also be served by facsimile to the landlord or the landlord's representative at:

. . . . . .
Facsimile Number

IMPORTANT

IF YOU WANT YOUR LANDLORD TO STORE YOUR PROPERTY, THIS WRITTEN REQUEST MUST BE RECEIVED BY THE LANDLORD NO LATER THAN THREE (3) DAYS AFTER THE SHERIFF SERVES THE WRIT OF RESTITUTION. YOU SHOULD RETAIN PROOF OF SERVICE.

**Sec. 6 was vetoed. See message at end of chapter.*

**Sec. 7. RCW 59.18.595 and 2015 c 264 s 3 are each amended to read as follows:*

(1) In the event of the death of a tenant who is the sole occupant of the dwelling unit:

(a) The landlord, upon learning of the death of the tenant, shall promptly mail or personally deliver written notice to any known personal representative,

known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the address of the dwelling unit. If the landlord knows of any address used for the receipt of electronic communications, the landlord shall email the notice to that address as well. The notice must include:

(i) The name of the deceased tenant and address of the dwelling unit;

(ii) The approximate date of the deceased tenant's death;

(iii) The rental amount and date through which rent is paid;

(iv) A statement that the tenancy will terminate ((~~fifteen~~)) 15 days from the date the notice is mailed or personally delivered or the date through which rent is paid, whichever comes later, unless during that time period a tenant representative makes arrangements with the landlord to pay rent in advance for no more than ((~~sixty~~)) 60 days from the date of the tenant's death to allow a tenant representative to arrange for orderly removal of the tenant's property. At the end of the period for which the rent has been paid pursuant to this subsection, the tenancy ends;

(v) A statement that failure to remove the tenant's property before the tenancy is terminated or ends as provided in (a)(iv) of this subsection will allow the landlord to enter the dwelling unit and take possession of any property found on the premises, store it in a reasonably secure place, and charge the actual or reasonable costs, whichever is less, of drayage and storage of the property, and after service of a second notice sell or dispose of the property as provided in subsection (3) of this section; and

(vi) A copy of any designation executed by the tenant pursuant to RCW 59.18.590;

(b) The landlord shall turn over possession of the tenant's property to a tenant representative if a request is made in writing within the specified time period or any subsequent date agreed to by the parties;

(c) Within ((~~fourteen~~)) 14 days after the removal of the property by the tenant representative, the landlord shall refund any unearned rent and shall give a full and specific statement of the basis for retaining any deposit together with the payment of any refund due the deceased tenant under the terms and conditions of the rental agreement to the tenant representative; and

(d) Any tenant representative who removes property from the tenant's dwelling unit or the premises must, at the time of removal, provide to the landlord an inventory of the removed property and signed acknowledgment that he or she has only been given possession and not ownership of the property.

(2) A landlord shall send a second written notice before selling or disposing of a deceased tenant's property.

(a) If the tenant representative makes arrangements with the landlord to pay rent in advance as provided in subsection (1)(a)(iv) of this section, the landlord shall mail a second written notice to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the dwelling unit. The second notice must include:

(i) The name, address, and phone number or other contact information for the tenant representative, if known, who made the arrangements to pay rent in advance;

(ii) The amount of rent paid in advance and date through which rent was paid; and

(iii) A statement that the landlord may sell or dispose of the property on or after the date through which rent is paid or at least ((~~forty five~~)) 45 days after the second notice is mailed, whichever comes later, if a tenant representative does not claim and remove the property in accordance with this subsection.

(b) If the landlord places the property in storage pursuant to subsection (1)(a) of this section, the landlord shall mail a second written notice, unless a written notice under (a) of this subsection has already been provided, to any known personal representative, known designated person, emergency contact identified by the tenant on the rental application, known person reasonably believed to be a successor of the tenant as defined in RCW 11.62.005, and to the deceased tenant at the dwelling unit. The second notice must state that the landlord may sell or dispose of the property on or after a specified date that is at least ((~~forty five~~)) 45 days after the second notice is mailed if a tenant representative does not claim and remove the property in accordance with this subsection.

(c) The landlord shall turn over possession of the tenant's property to a tenant representative if a written request is made within the applicable time periods after the second notice is mailed, provided the tenant representative: (i) Pays the actual or reasonable costs, whichever is less, of drayage and storage of the property, if applicable; and (ii) gives the landlord an inventory of the property and signs an acknowledgment that he or she has only been given possession and not ownership of the property.

(d) Within ((~~fourteen~~)) 14 days after the removal of the property by the tenant representative, the landlord shall refund any unearned rent and shall give a full and specific statement of the basis for retaining any deposit together with the payment of any refund due the deceased tenant under the terms and conditions of the rental agreement to the tenant representative.

(3)(a) If a tenant representative has not contacted the landlord or removed the deceased tenant's property within the applicable time periods under this section, the landlord may sell or dispose of the deceased tenant's property, except for personal papers and personal photographs, as provided in this subsection.

(i) If the landlord reasonably estimates the fair market value of the stored property to be more than ((~~one thousand dollars~~)) $1,000, the landlord shall arrange to sell the property in a commercially reasonable manner and may dispose of any property that remains unsold in a reasonable manner.

(ii) If the value of the stored property does not meet the threshold provided in (a)(i) of this subsection, the landlord may dispose of the property in a reasonable manner.

(iii) The landlord may apply any income derived from the sale of the property pursuant to this section against any costs of sale and moneys due the landlord, including actual or reasonable costs, whichever is less, of drayage and storage of the deceased tenant's property. Any excess income derived from the sale of such property under this section must be held by the landlord for a

period of one year from the date of sale, and if no claim is made for recovery of the excess income before the expiration of that one-year period, the balance must be treated as abandoned property and deposited by the landlord with the department of revenue pursuant to chapter ((~~63.29~~)) 63.30 RCW.

(b) Personal papers and personal photographs that are not claimed by a tenant representative within ((~~ninety~~)) 90 days after a sale or other disposition of the deceased tenant's other property shall be either destroyed or held for the benefit of any successor of the deceased tenant as defined in RCW 11.62.005.

(c) No landlord or employee of a landlord, or his or her family members, may acquire, directly or indirectly, the property sold pursuant to (a)(i) of this subsection or disposed of pursuant to (a)(ii) of this subsection.

(4) Upon learning of the death of the tenant, the landlord may enter the deceased tenant's dwelling unit and immediately dispose of any perishable food, hazardous materials, and garbage found on the premises and turn over animals to a tenant representative or to an animal control officer, humane society, or other individual or organization willing to care for the animals.

(5) Any notices sent by the landlord under this section must include a mailing address, any address used for the receipt of electronic communications, and a telephone number of the landlord.

(6) If a landlord knowingly violates this section, the landlord is liable to the deceased tenant's estate for actual damages. The prevailing party in any action pursuant to this subsection may recover costs and reasonable attorneys' fees.

(7) A landlord who complies with this section is relieved from any liability relating to the deceased tenant's property.

**Sec. 7 was vetoed. See message at end of chapter.*

**Sec. 8. RCW 63.30.040 and 2022 c 225 s 201 are each amended to read as follows:*

Subject to RCW 63.30.120, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

(1) A traveler's check, 15 years after issuance;

(2) A money order, five years after issuance;

(3) A state or municipal bond, bearer bond, or original issue discount bond, three years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;

(4) A debt of a business association, three years after the obligation to pay arises;

(5) A demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the later of maturity, if applicable, of the deposit or the owner's last indication of interest in the deposit, except a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

(6) Money or a credit owed to a customer as a result of a retail business transaction, three years after the obligation arose;

(7) An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose under the terms of the policy or contract

or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, as follows:

(a) With respect to an amount owed on a life or endowment insurance policy, three years after the earlier of the date:

(i) The insurance company has knowledge of the death of the insured; or

(ii) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and

(b) With respect to an amount owed on an annuity contract, three years after the date the insurance company has knowledge of the death of the annuitant;

(8) Property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

(9) Property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;

(10) Property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one year after the property becomes distributable;

(11) Wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, one year after the amount becomes payable;

(12) A deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable; ((~~and~~))

(13) Payroll card, one year after the amount becomes payable; ((~~and~~))

(14) Excess proceeds from the sale of property by an owner of a self-service storage facility conducted pursuant to RCW 19.150.080, six months from the date of sale;

(15) Excess income from the sale of tenant property by a landlord conducted pursuant to RCW 59.18.312 and 59.18.595, one year from the date of the sale;

(16) Excess funds from the sale of an abandoned vessel by an operator of a private moorage facility conducted pursuant to RCW 88.26.020, one year from the date of the sale; and

(17) Property not specified in this section or RCW 63.30.050 through 63.30.100, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

****Sec. 8 was vetoed. See message at end of chapter.***

Sec. 9. RCW 82.04.4489 and 2022 c 270 s 5 are each amended to read as follows:

(1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for contributions made by a person to a Washington motion picture competitiveness program.

(2) The person must make the contribution before claiming a credit authorized under this section. Credits earned under this section may be claimed against taxes due for the calendar year in which the contribution is made. The amount of credit claimed for a reporting period may not exceed the tax otherwise due under this chapter for that reporting period. No person may claim more than $1,000,000 of credit in any calendar year, including credit carried over from a previous calendar year. No refunds may be granted for any unused credits.

(3) The maximum credit that may be earned for each calendar year under this section for a person is limited to the lesser of $1,000,000 or an amount equal to ((~~one hundred~~)) 100 percent of the contributions made by the person to a program during the calendar year.

(4) Except as provided under subsection (5) of this section, a tax credit claimed under this section may not be carried over to another year.

(5) Any amount of tax credit otherwise allowable under this section not claimed by the person in any calendar year may be carried over and claimed against the person's tax liability for the next succeeding calendar year. Any credit remaining unused in the next succeeding calendar year may be carried forward and claimed against the person's tax liability for the second succeeding calendar year; and any credit not used in that second succeeding calendar year may be carried over and claimed against the person's tax liability for the third succeeding calendar year, but may not be carried over for any calendar year thereafter.

(6) Credits are available on a first-in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section during any calendar year to exceed $15,000,000. If this limitation is reached, the department must notify all Washington motion picture competitiveness programs that the annual statewide limit has been met. In addition, the department must provide written notice to any person who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide that the tax be paid within ((~~thirty~~)) 30 days from the date of the notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(7) To claim a credit under this section, a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(8) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section.

(9) A Washington motion picture competitiveness program must provide to the department, upon request, such information needed to verify eligibility for credit under this section, including information regarding contributions received by the program.

(10) The department may not allow any credit under this section before July 1, 2006.

(11) For the purposes of this section, "Washington motion picture competitiveness program" or "program" means an organization established pursuant to chapter 43.365 RCW.

(12) Persons claiming a credit against the tax imposed under this chapter for contributions made to a Washington motion picture competitiveness program ((~~and not otherwise receiving funding assistance under RCW 43.365.020~~)) are

exempt from the annual reporting requirements in RCW 82.32.534 and 43.365.040.

(13) No credit may be earned for contributions made on or after July 1, 2030.

Sec. 10. RCW 82.08.0206 and 2022 c 41 s 1 and 2022 c 33 s 1 are each reenacted and amended to read as follows:

(1) A working families' tax credit, in the form of a refund of tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales and use taxes paid under this chapter and chapter 82.12 RCW after January 1, 2022.

(2) For purposes of the credit in this section, the following definitions apply:

(a)(i) "Eligible low-income person" means an individual who:

(A) Is eligible for the credit provided in Title 26 U.S.C. Sec. 32 of the internal revenue code; and

(B) Properly files a federal income tax return for the prior federal tax year, and was a Washington resident during the year for which the credit 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 of the internal revenue code except for the fact that the individual filed a federal income tax return for the prior federal tax year using a valid individual taxpayer identification number in lieu of a social security number, and the individual's spouse, if any, and all qualifying children, if any, have a valid individual taxpayer identification number or a social security number.

(b) "Income" means earned income as defined by Title 26 U.S.C. Sec. 32 of the internal revenue code.

(c) "Individual" means an individual or an individual and that individual's spouse if they file a federal joint income tax return.

(d) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of June 9, 2022, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(e) "Maximum qualifying income" means the maximum federally adjusted gross income for the prior federal tax year.

(f) "Qualifying child" means a qualifying child as defined by Title 26 U.S.C. Sec. 32 of the internal revenue code, except the child may have a valid individual taxpayer identification number in lieu of a social security number.

(g) "Washington resident" means an individual who is physically present and residing in this state for at least 183 days. "Washington resident" also includes an individual who is not physically present and residing in this state for at least 183 days but is the spouse of a Washington resident. For purposes of this subsection, "day" means a calendar day or any portion of a calendar day.

(3)(a) Except as provided in (b) and (c) of this subsection, for calendar year 2023 and thereafter, the working families' tax credit refund amount for the prior calendar year is:

(i) $300 for eligible persons with no qualifying children;

(ii) $600 for eligible persons with one qualifying child;

(iii) $900 for eligible persons with two qualifying children; or

(iv) $1,200 for eligible persons with three or more qualifying children.

(b) Except as provided in (f) of this subsection, the refund 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 refund for an eligible person as calculated in this section is greater than ((~~or equal to one~~)) zero cents, but less than $50, the refund amount is $50.

(d) The refund amounts in this section shall be adjusted for inflation every year beginning January 1, 2024, based upon changes in the consumer price index that are published by November 15th of the previous year for the most recent 12-month period. The adjusted refund amounts must be rounded to the nearest $5.

(e) For purposes of this section, "consumer price index" means, for any 12-month period, the average consumer price index for that 12-month period 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.

(f) The percentage rate of remittance reductions in (b) of this subsection must be adjusted every year beginning January 1, 2023, based on calculations by the department that result in the minimum credit being received at the maximum qualifying income level.

(4) The working families' tax credit shall be administered as provided in this subsection.

(a) The refund 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 refund under this section must be made in the year following the year for which the federal tax return was filed, but in no case may any refund be provided for any period before January 1, 2022. The department must use the eligible person's most recent federal tax filing for the tax year for which the refund is being claimed to calculate the refund.

(iii) A person may not claim a credit on behalf of a deceased individual. No individual may claim a credit under this section for any year in a disallowance

period under Title 26 U.S.C. Sec. 32(k)(1) of the internal revenue code or for any year for which the individual is ineligible to claim the credit in Title 26 U.S.C. Sec. 32 of the internal revenue code by reason of Title 26 U.S.C. Sec. 32(k)(2) of the internal revenue code.

(b) The department shall protect the privacy and confidentiality of personal data of refund 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, the credit provided in this section.

(d) The department must work with the internal revenue service to administer the credit on an automatic basis as soon as practicable.

(5) Receipt of the refund under this section may not be used in eligibility determinations for any state income support programs or in making public charge determinations.

(6) 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.

(7) The department must review the application and determine eligibility for the working families' tax credit 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.

(8) If, upon review of internal revenue service data or other information obtained by the department, it appears that an individual received a refund that the individual was not entitled to, or received a larger refund 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 refund in question was based on both spouses filing a joint federal income tax return for the year for which the refund was claimed.

(a) Interest as provided under RCW 82.32.050 applies to assessments authorized under this subsection (8) starting six months after the date the department issued the assessment until the amount due under this subsection (8) 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 (8)(b) may not be made due until six months after the department's issuance of the 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 refund 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 (8).

(9) If, within the period allowed for refunds under RCW 82.32.060, the department finds that an individual received a lesser refund than the individual was entitled to, the department must remit the additional amount due under this section to the individual.

(10) Interest does not apply to refunds provided under this section.

(11) Chapter 82.32 RCW applies to the administration of this section.

Sec. 11. RCW 82.14.070 and 2003 c 168 s 202 are each amended to read as follows:

(1) It is the intent of this chapter that any local sales and use tax adopted pursuant to this chapter be identical to the state sales and use tax, unless otherwise prohibited by federal law, and with other local sales and use taxes adopted pursuant to this chapter.

(2) It is further the intent of this chapter that the local sales and use tax shall be imposed upon an individual taxable event simultaneously with the imposition of the state sales or use tax upon the same taxable event. The rule making powers of the state department of revenue contained in RCW 82.08.060 and 82.32.300 shall be applicable to this chapter. The department shall, as soon as practicable, and with the assistance of the appropriate associations of county prosecutors and city attorneys, draft a model resolution and ordinance.

(3) Except as otherwise provided by law, all state sales and use tax exemptions, credits, and deductions apply in an identical manner to local sales and use taxes adopted pursuant to this chapter or other provision of law.

Sec. 12. RCW 82.32.045 and 2022 c 295 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this chapter and subsection (6) of this section, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, ((~~and~~)) 82.16, and 82.27 RCW, along with reports and returns on forms prescribed by the department, are due monthly within ((~~twenty five~~)) 25 days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. Except as provided in subsection (3) of this section, for these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) For annual filers, tax payments, along with reports and returns on forms prescribed by the department, are due on or before April 15th of the year immediately following the end of the period covered by the return.

(4) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(5) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than $125,000 per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than ((~~twenty-four thousand dollars~~)) $24,000 per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

(6)(a) Taxes imposed under chapter 82.08 or 82.12 RCW on taxable events that occur beginning January 1, 2019, through June 30, 2019, and payable by a consumer directly to the department are due, on returns prescribed by the department, by July 25, 2019.

(b) This subsection (6) does not apply to the reporting and payment of taxes imposed under chapters 82.08 and 82.12 RCW:

(i) On the retail sale or use of motor vehicles, vessels, or aircraft; or

(ii) By consumers who are engaged in business, unless the department has relieved the consumer of the requirement to file returns pursuant to subsection (5) of this section.

Sec. 13. RCW 82.32.105 and 2017 c 323 s 106 are each amended to read as follows:

(1) If the department finds that the payment by a taxpayer of a tax less than that properly due or the failure of a taxpayer to pay any tax by the due date was the result of circumstances beyond the control of the taxpayer, the department must waive or cancel any penalties imposed under this chapter with respect to such tax.

(2) The department must waive or cancel the penalty imposed under RCW 82.32.090(1) when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under subsection (1) of this section if:

(a) The taxpayer requests the waiver for a tax return required to be filed under RCW 54.28.040, 82.32.045, 82.14B.061, 82.23B.020, ((~~82.27.060,~~)) 82.29A.050, or 84.33.086; and

(b) The taxpayer has timely filed and remitted payment on all tax returns due for that tax program for a period of ((~~twenty-four~~)) 24 months immediately preceding the period covered by the return for which the waiver is being requested.

(3) The department must waive or cancel interest imposed under this chapter if:

(a) The failure to timely pay the tax was the direct result of written instructions given the taxpayer by the department; or

(b) The extension of a due date for payment of an assessment of deficiency was not at the request of the taxpayer and was for the sole convenience of the department.

(4) The department must adopt rules for the waiver or cancellation of penalties and interest imposed by this chapter.

Sec. 14. RCW 82.60.020 and 2010 1st sp.s. c 16 s 2 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means:

(a) Through June 30, 2010, a rural county as defined in RCW 82.14.370; and

(b) Beginning July 1, 2010, a qualifying county.

(4)(a) "Eligible investment project" means an investment project that is located, as of the date the deferral application ((~~required by RCW 82.60.030~~)) is received by the department, in an eligible area as defined in subsection (3) of this section.

(b) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(4), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part, or investment projects that have already received deferrals under this chapter.

(5)(a) "Initiation of construction" ((~~has the same meaning as in RCW 82.63.010~~)) means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(i) Construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(ii) Construction of the qualified building, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.60.025; or

(iii) Tenant improvements for a qualified building, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.60.025.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(6) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(7) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; (ii) the activities performed by research and development laboratories and commercial testing laboratories; and (iii) the conditioning of vegetable seeds; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(8) "Person" has the meaning given in RCW 82.04.030.

(9) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing or research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing

or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral must be determined by apportionment of the costs of construction under rules adopted by the department.

(10) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year. The term "entire tax year" means a full-time position that is filled for a period of ((~~twelve~~)) 12 consecutive months. The term "full-time" means at least ((~~thirty-five~~)) 35 hours a week, ((~~four hundred fifty-five~~)) 455 hours a quarter, or ((~~one thousand eight hundred twenty~~)) 1,820 hours a year.

(11) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(12) "Qualifying county" means a county that has an unemployment rate, as determined by the employment security department, which is at least ((~~twenty~~)) 20 percent above the state average for the three calendar years immediately preceding the year in which the list of qualifying counties is established or updated, as the case may be, as provided in RCW 82.60.120.

(13) "Recipient" means a person receiving a tax deferral under this chapter.

(14) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed ((~~one million dollars~~)) $1,000,000.

Sec. 15. RCW 82.60.049 and 2010 1st sp.s. c 16 s 7 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Eligible area" also means a designated community empowerment zone approved under RCW 43.31C.020.

(b) "Eligible investment project" also means an investment project in an eligible area as defined in this section.

(2) ((~~In addition to the provisions of RCW 82.60.040, the~~)) Until July 1, 2020, the department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW, on each eligible investment project that is located in an eligible area, if the applicant establishes that at the time the project is operationally complete:

(a) The applicant will hire at least one qualified employment position for each ((~~seven hundred fifty thousand dollars~~)) $750,000 of investment for which a deferral is requested; and

(b) The positions will be filled by persons who at the time of hire are residents of the community empowerment zone. As used in this subsection, "resident" means the person makes his or her home in the community

empowerment zone or the county in which the zone is located. A mailing address alone is insufficient to establish that a person is a resident for the purposes of this section. The persons must be hired after the date the application is filed with the department.

(3) All other provisions and eligibility requirements of this chapter apply to applicants eligible under this section.

(4) The qualified employment position must be filled by the end of the calendar year following the year in which the project is certified as operationally complete. If a person does not meet the requirements for qualified employment positions by the end of the second calendar year following the year in which the project is certified as operationally complete, all deferred taxes are immediately due.

Sec. 16. RCW 82.60.060 and 2010 1st sp.s. c 16 s 8 are each amended to read as follows:

(1) ((~~The~~)) In the event the eligible investment project ceases to meet the requirements of this chapter, the recipient must begin paying the deferred taxes in the third year after the date certified by the department as the date on which the investment project has been operationally completed. The first payment ((~~will be~~)) is due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(2) The department may authorize an accelerated repayment schedule upon request of the recipient.

(3) Interest may not be charged on any taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes ((~~will~~)) may not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

Sec. 17. RCW 82.60.070 and 2017 c 135 s 36 are each amended to read as follows:

(1)(a) Each recipient of a deferral of taxes granted under this chapter must file a complete annual tax performance report with the department under RCW 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.60.025, the lessee must file a complete annual tax performance report, and the applicant is not required to file a complete annual tax performance report.

(b) The department must use the information reported on the annual tax performance report required by this section to study the tax deferral program authorized under this chapter. The department must report to the legislature by December 1, 2018. The report must measure the effect of the program on job creation, the number of jobs created for residents of eligible areas, company growth, and such other factors as the department selects.

(2) Except as provided in RCW 82.60.063, if, on the basis of a tax performance report under RCW 82.32.534 or other information, the department finds that an investment project is not eligible for tax deferral under this chapter, the amount of deferred taxes outstanding for the project, according to the repayment schedule in RCW 82.60.060, is immediately due. For purposes of this subsection (2), the repayment schedule in RCW 82.60.060 is ((~~tolled~~)) suspended during the period of time that a taxpayer is receiving relief from repayment of deferred taxes under RCW 82.60.063.

(3) A recipient who must repay deferred taxes under subsection (2) of this section because the department has found that an investment project is not eligible for tax deferral under this chapter is no longer required to file annual tax performance reports under RCW 82.32.534 beginning on the date an investment project is used for nonqualifying purposes.

(4) Notwithstanding any other provision of this section or RCW 82.32.534, deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

Sec. 18. RCW 82.70.900 and 2015 3rd sp.s. c 44 s 416 are each amended to read as follows:

((~~Except for RCW 82.70.050, this~~)) This chapter expires July 1, 2024.

Sec. 19. RCW 82.73.030 and 2021 c 112 s 2 are each amended to read as follows:

(1) Subject to the limitations in this chapter, a credit is allowed against the tax imposed by chapters 82.04 and 82.16 RCW for approved contributions that are made by a person to a program or the main street trust fund.

(2)(a) Except as provided in (b) of this subsection, the credit allowed under this section is limited to an amount equal to:

(i) Seventy-five percent of the approved contribution made by a person to a program; or

(ii) Fifty percent of the approved contribution made by a person to the main street trust fund.

(b) Beginning with contributions made in calendar year 2021, an additional credit is allowed equal to 25 percent of the approved contribution made by a person to the main street trust fund.

(3) The department may not approve credit with respect to a program in a city or town with a population of ((~~one hundred ninety thousand~~)) 190,000 persons or more at the time of designation under RCW 43.360.030.

(4) The department must keep a running total of all credits approved under this chapter for each calendar year. The department may not approve

any credits under this section that would cause the total amount of approved credits statewide to exceed $5,000,000 in any calendar year.

(5)(a)(i) The total credits allowed under this chapter for contributions made to each program may not exceed $160,000 in a calendar year.

(ii) Between 8:00 a.m., Pacific standard time, on the second Monday in January and 8:00 a.m., Pacific daylight time, on April 1st of the same calendar year, the department must evenly allocate the amount of statewide credits allowed under subsection (4) of this section based on the total number of programs and the main street trust fund as of January 1st in the same calendar year. The department may not approve contributions for a program or the main street trust fund that would cause the total amount of approved credits for a program or the main street trust fund to exceed the allocated amount.

(b) The total credits allowed under this chapter for a person may not exceed ((~~two hundred fifty thousand dollars~~)) $250,000 in a calendar year.

(6) Except as provided in subsection (8) of this section, the credit may be claimed against any tax due under chapters 82.04 and 82.16 RCW only in the calendar year immediately following the calendar year in which the credit was approved by the department and the contribution was made to the program or the main street trust fund. Credits may not be carried over to subsequent years. No refunds may be granted for credits under this chapter.

(7) The total amount of the credit claimed in any calendar year by a person may not exceed the lesser amount of:

(a) The approved credit; or

(b) Seventy-five percent of the amount of the contribution that is made by the person to a program and 75 percent of the amount of the contribution that is made by the person to the main street trust fund, in the prior calendar year.

(8) Any credits provided in accordance with this chapter for approved contributions made in calendar year 2020 may be carried over for an additional two years and must be used by December 31, 2023.

(9) No credit is allowed or may be claimed under this section on or after January 1, 2032.

****Sec. 19 was vetoed. See message at end of chapter.***

Sec. 20. RCW 82.90.080 and 2022 c 161 s 8 are each amended to read as follows:

A lessor or owner of an eligible investment project is not eligible for a deferral under this chapter unless:

(1) The underlying ownership of the qualified solar canopy vests exclusively in the same person; or

(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual tax performance report required under RCW ((~~82.63.020(2)~~)) 82.32.534; and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the eligible investment project and the lessee.

Sec. 21. RCW 84.52.120 and 1995 c 99 s 1 are each amended to read as follows:

A metropolitan park district with a population of ((~~one hundred fifty thousand~~)) 150,000 or more may submit a ballot proposition to voters of the district authorizing the protection of the district's tax levy from prorationing under RCW 84.52.010(((~~(2)~~))) (3)(b) by imposing all or any portion of the district's ((~~twenty-five~~)) 25 cent per ((~~thousand dollars~~)) $1,000 of assessed valuation tax levy outside of the ((~~five dollar and ninety cent~~)) $5.90 per ((~~thousand dollar~~)) $1,000 of assessed valuation limitation established under RCW 84.52.043(2), if those taxes otherwise would be prorated under RCW 84.52.010(((~~(2)(e)~~))) (3)(b)(iv), for taxes imposed in any year on or before the first day of January six years after the ballot proposition is approved. A simple majority vote of voters voting on the proposition is required for approval.

Sec. 22. RCW 84.52.816 and 2015 c 170 s 3 are each amended to read as follows:

A flood control zone district in a county with a population of ((~~seven hundred seventy-five thousand~~)) 775,000 or more, or a county within the Chehalis river basin, that is coextensive with a county may protect the levy under RCW 86.15.160 from prorationing under RCW 84.52.010(3)(b)(((~~(ii)~~))) (iii) by imposing up to a total of ((~~twenty-five~~)) 25 cents per ((~~thousand dollars~~)) $1,000 of assessed value of the tax levy authorized under RCW 86.15.160 outside of the ((~~five dollars and ninety cents~~)) $5.90 per ((~~thousand dollars~~)) $1,000 of assessed value limitation under RCW 84.52.043(2), if those taxes otherwise would be prorated under RCW 84.52.010(3)(b)(((~~(ii)~~))) (iii).

Sec. 23. RCW 88.02.620 and 2021 c 150 s 1 are each amended to read as follows:

(1) A vessel owner who is a nonresident person must obtain a nonresident vessel permit on or before the ((~~sixty-first~~)) 61st day of use in Washington state if the vessel:

(a) Is currently registered or numbered under the laws of the state or ((~~county [country]~~)) country of principal operation, has been issued a valid number under federal law, or has a valid United States customs service cruising license issued under 19 C.F.R. Sec. 4.94; and

(b) Has been brought into Washington state for not more than six months in any continuous ((~~twelve~~)) 12-month period, and is used:

(i) For personal use; or

(ii) For the purposes of chartering a vessel with a captain or crew, as long as individual charters are for at least three or more consecutive days in duration. The permit also applies for the purposes of necessary transit to or from the start or end point of such a charter, but that transit time is not counted toward the duration of the charter.

(2) In addition to the requirements in subsection (1) of this section, a nonresident vessel owner that is not a natural person, or a nonresident vessel owner who is a natural person who intends to charter the vessel with a captain or crew as provided in subsection (1)(b)(ii) of this section, may only obtain a nonresident vessel permit if:

(a) The vessel is at least ((~~thirty~~)) 30 feet in length, but no more than ((~~two hundred~~)) 200 feet in length;

(b) No Washington state resident owns the vessel or is a principal, as defined in RCW 82.32.865, of the nonresident person which owns the vessel; and

(c) The department of revenue has provided the nonresident vessel owner written approval authorizing the permit as provided in RCW 82.32.865.

(3) A nonresident vessel permit:

(a) May be obtained from the department, county auditor or other agent, or subagent appointed by the director;

(b) Must show the date the vessel first came into Washington state; and

(c) Is valid for two months.

(4) The department, county auditor or other agent, or subagent appointed by the director must collect the fee required in RCW 88.02.640(1)(i) when issuing nonresident vessel permits.

(5) A nonresident vessel permit is not required under this section if the vessel is used in conducting temporary business activity within Washington state.

(6) For any permits issued under this section to a nonresident vessel owner that is not a natural person, or for any permits issued to a natural person who intends to charter the vessel with a captain or crew as provided in subsection (1)(b)(ii) of this section, the department must maintain a record of the following information and provide it to the department of revenue quarterly or as otherwise mutually agreed to by the department and department of revenue:

(a) The name of the record owner of the vessel;

(b) The vessel's hull identification number;

(c) The amount of the fee paid under RCW 88.02.640(5);

(d) The date the vessel first entered the waters of this state;

(e) The expiration date for the permit; and

(f) Any other information mutually agreed to by the department and department of revenue.

(7) The department must adopt rules to implement this section, including rules on issuing and displaying the nonresident vessel permit.

Sec. 24. RCW 88.26.020 and 2013 c 291 s 41 are each amended to read as follows:

(1) Any private moorage facility operator may take reasonable measures, including the use of chains, ropes, and locks, or removal from the water, to secure vessels within the private moorage facility so that the vessels are in the possession and control of the operator and cannot be removed from the facility. These procedures may be used if an owner mooring or storing a vessel at the facility fails, after being notified that charges are owing and of the owner's right to commence legal proceedings to contest that such charges are owing, to pay charges owed or to commence legal proceedings. Notification shall be by two separate letters, one sent by first-class mail and one sent by registered mail to the owner and any lienholder of record at the last known address. In the case of a transient vessel, or where no address was furnished by the owner, the operator need not give notice prior to securing the vessel. At the time of securing the vessel, an operator shall attach to the vessel a readily visible notice. The notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the notice was attached;

(b) A statement that if the account is not paid in full within ((~~ninety~~)) 90 days from the time the notice is attached the vessel may be sold at public auction to satisfy the charges; and

(c) The address and telephone number where additional information may be obtained concerning release of the vessel.

After a vessel is secured, the operator shall make a reasonable effort to notify the owner and any lienholder of record by registered mail in order to give the owner the information contained in the notice.

(2) A private moorage facility operator, at his or her discretion, may move moored vessels ashore for storage within properties under the operator's control or for storage with a private person under their control as bailees of the private moorage facility, if the vessel is, in the opinion of the operator, a nuisance, in danger of sinking or creating other damage, or is owing charges. The costs of any such procedure shall be paid by the vessel's owner.

(3) If a vessel is secured under subsection (1) of this section or moved ashore under subsection (2) of this section, the owner who is obligated to the private operator for charges may regain possession of the vessel by:

(a) Making arrangements satisfactory with the operator for the immediate removal of the vessel from the facility or for authorized moorage; and

(b) Making payment to the operator of all charges, or by posting with the operator a sufficient cash bond or other acceptable security, to be held in trust by the operator pending written agreement of the parties with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, or after the parties reach agreement with respect to payment, the trust shall terminate and the operator shall receive so much of the bond or other security as agreed, or as is necessary, to satisfy any judgment, costs, and interest as may be awarded to the operator. The balance shall be refunded immediately to the owner at the last known address.

(4) If a vessel has been secured by the operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ((~~ninety~~)) 90 days after notifying or attempting to notify the owner under subsection (1) of this section, the vessel is conclusively presumed to have been abandoned by the owner.

(5) If a vessel moored or stored at a private moorage facility is abandoned, the operator may authorize the public sale of the vessel by authorized personnel, consistent with this section, to the highest and best bidder for cash as follows:

(a) Before the vessel is sold, the vessel owner and any lienholder of record shall be given at least ((~~twenty~~)) 20 days' notice of the sale in the manner set forth in subsection (1) of this section if the name and address of the owner is known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of charges owed with respect to the vessel. The notice of sale shall be published at least once, more than ((~~ten~~)) 10 but not more than ((~~twenty~~)) 20 days before the sale, in a newspaper of general circulation in the county in which the facility is located. This notice shall include the name of the vessel, if any, the last known owner and address, and a reasonable description of the vessel to be sold. The

operator may bid all or part of its charges at the sale and may become a purchaser at the sale.

(b) Before the vessel is sold, any person seeking to redeem an impounded vessel under this section may commence a lawsuit in the superior court for the county in which the vessel was impounded to contest the validity of the impoundment or the amount of charges owing. This lawsuit must be commenced within ((~~sixty~~)) 60 days of the date the notification was provided under subsection (1) of this section, or the right to a hearing is deemed waived and the owner is liable for any charges owing the operator. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(c) The proceeds of a sale under this section shall be applied first to the payment of any liens superior to the claim for charges, then to payment of the charges, then to satisfy any other liens on the vessel in the order of their priority. The balance, if any, shall be paid to the owner. If the owner cannot in the exercise of due diligence be located by the operator within one year of the date of the sale, the excess funds from the sale shall revert to the department of revenue under chapter ((~~63.29~~)) 63.30 RCW. If the sale is for a sum less than the applicable charges, the operator is entitled to assert a claim for deficiency, however, the deficiency judgment shall not exceed the moorage fees owed for the previous six-month period.

(d) In the event no one purchases the vessel at a sale, or a vessel is not removed from the premises or other arrangements are not made within ((~~ten~~)) 10 days of sale, title to the vessel will revert to the operator.

(e) Either a minimum bid may be established or a letter of credit may be required from the buyer, or both, to discourage the future abandonment of the vessel.

(6) The rights granted to a private moorage facility operator under this section are in addition to any other legal rights an operator may have to hold and sell a vessel and in no manner does this section alter those rights, or affect the priority of other liens on a vessel.

****Sec. 24 was vetoed. See message at end of chapter.***

NEW SECTION. **Sec. 25.** The following acts or parts of acts are each repealed:

(1) RCW 82.12.02088 (Exemptions—Digital products—Business buyers—Concurrently available for use within and outside state—Apportionment) and 2017 c 323 s 522 & 2009 c 535 s 702;

(2) RCW 82.27.060 (Payment of tax—Remittance—Returns) and 2006 c 256 s 3, 2003 1st sp.s. c 13 s 10, 1990 c 214 s 1, & 1980 c 98 s 6; and

(3) RCW 82.70.050 (Credit taken, director must advise) and 2022 c 182 s 312, 2015 3rd sp.s. c 44 s 415, 2015 1st sp.s. c 10 s 710, 2014 c 222 s 706, & 2003 c 364 s 5.

NEW SECTION. **Sec. 26.** Sections 1 through 4, 6 through 8, and 24 of this act apply both prospectively and retroactively to January 1, 2023.

NEW SECTION. **Sec. 27.** Section 23 of this act expires January 1, 2029.

Passed by the Senate April 18, 2023.
Passed by the House March 24, 2023.

Approved by the Governor May 9, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 2, 3, 4, 6, 7, 8, 19, and 24, Substitute Senate Bill No. 5565 entitled:

"AN ACT Relating to modifying tax and revenue laws by making technical corrections, clarifying ambiguities, easing compliance burdens for taxpayers, and providing administrative efficiencies."

Substitute Senate Bill 5565 makes technical corrections to various tax-related statutes.

This bill contains a number of sections that are duplicated in other bills passed by the Legislature in the 2023 legislative session, creating unnecessary double amendments with Engrossed Senate Bill 5336, Second Substitute House Bill 1477, and House Bill 1742.

For these reasons I have vetoed Sections 2, 3, 4, 6, 7, 8, 19, and 24 of Substitute Senate Bill No. 5565.

With the exception of Sections 2, 3, 4, 6, 7, 8, 19, and 24, Substitute Senate Bill No. 5565 is approved."

CHAPTER 375

[Substitute Senate Bill 5586]

PAID FAMILY AND MEDICAL LEAVE—ACCESS TO CLAIM DATA

AN ACT Relating to employees' paid family or medical leave data; amending RCW 50A.25.040; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50A.25.040 and 2019 c 13 s 73 are each amended to read as follows:

(1) An individual shall have access to all records and information concerning that individual held by the department unless the information is exempt from disclosure under RCW 42.56.410.

(2) An employer shall have access to:

(a) Its own records relating to any claim or determination for family or medical leave benefits by an individual;

(b) Records and information relating to a decision to allow or deny benefits if the decision is based on material information provided by the employer; and

(c) Records and information related to that employer's premium assessment.

(3)(a) Any interested party may have access to the following records and information related to an employee's paid family or medical leave claim:

(i) Type of leave being taken;

(ii) Requested duration of leave including the approved dates of leave; and

(iii) Whether the employee was approved for benefits and was paid benefits for any given week.

(b) Any information provided under this subsection shall be considered accurate to the extent possible based on information available to the department at the time the request is processed.

(c) Any information provided under this subsection may only be used for the purpose of administering internal employer leave or benefit practices under

established employer policies. The department may investigate unauthorized uses of records and information obtained under this subsection in accordance with RCW 50A.40.010.

(d) For the purposes of this subsection, "interested party" means a current employer, a current employer's third-party administrator, or an employee. "Interested party" may be specified further in rule by the department.

(4) The department may disclose records and information deemed confidential under this chapter to a third party acting on behalf of an individual or employer that would otherwise be eligible to receive records under subsection (1) or (2) of this section when the department receives a signed release from the individual or employer. The release must include a statement:

(a) Specifically identifying the information that is to be disclosed;

(b) That state government files will be accessed to obtain that information;

(c) Of the specific purpose or purposes for which the information is sought and a statement that information obtained under the release will only be used for that purpose or purposes; and

(d) Indicating all the parties who may receive the information disclosed.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2024.

Passed by the Senate April 19, 2023.
Passed by the House April 5, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 376

[Substitute Senate Bill 5714]

PROPERTY TAX PAYMENTS—AUTOMATED CHECK PROCESSING SERVICE—WHEN DELINQUENT

AN ACT Relating to payments made for property taxes or special assessments by an automated check processing service; and amending RCW 84.56.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.56.020 and 2022 c 143 s 1 are each amended to read as follows:

Treasurers' tax collection duties.

(1) The county treasurer must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All real and personal property taxes and assessments made payable by the provisions of this title are due and payable to the county treasurer on or before the ((~~thirtieth~~)) 30th day of April and, except as provided in this section, are delinquent after that date.

Tax statements.

(2)(a) Tax statements for the current year's collection must be distributed to each taxpayer on or before March 15th provided that:

(i) All city and other taxing district budgets have been submitted to county legislative authorities by November 30th per RCW 84.52.020;

(ii) The county legislative authority in turn has certified taxes levied to the county assessor in accordance with RCW 84.52.070; and

(iii) The county assessor has delivered the tax roll to the county treasurer by January 15th per RCW 84.52.080.

(b) Each tax statement must include a notice that checks for payment of taxes may be made payable to "Treasurer of . . . . . County" or other appropriate office, but tax statements may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(c) Each tax statement distributed to an address must include a notice with information describing the:

(i) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(ii) Property tax deferral program pursuant to chapter 84.38 RCW.

Tax payment due dates.

On-time tax payments: First-half taxes paid by April 30th and second-half taxes paid by October 31st.

(3)(a) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is ((~~fifty dollars~~)) $50 or more, and if one-half of such tax is paid on or before the ((~~thirtieth~~)) 30th day of April, the remainder of such tax is due and payable on or before the following ((~~thirty-first~~)) 31st day of October and is delinquent after that date.

(b) Payments generated by an automated check processing service or payments sent via United States mail with no discernable postmark date and received within three business days of the 30th day of April or the 31st day of October, as required under (a) of this subsection, are not delinquent.

Delinquent tax payments for current year: First-half taxes paid after April 30th.

(4)(a) When the total amount of tax or special assessments on any lot, block or tract of real property, personal property, or on any mobile home payable by one person is ((~~fifty dollars~~)) $50 or more, and if one-half of such tax is paid after the ((~~thirtieth~~)) 30th day of April but before the ((~~thirty-first~~)) 31st day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax is due and payable on or before the following ((~~thirty-first~~)) 31st day of October and is delinquent after that date.

(b) Payments generated by an automated check processing service or payments sent via United States mail with no discernable postmark date and received within three business days of the 30th day of April or the 31st day of October, as required under (a) of this subsection, are not delinquent.

Delinquent tax payments: Interest, penalties, and treasurer duties.

(5)(a) Except as provided in (c) of this subsection, delinquent taxes under this section are subject to interest as provided in this subsection computed on a

monthly basis on the amount of tax delinquent from the date of delinquency until paid. Interest must be calculated at the rate as described below.

(i) Until December 31, 2022, the interest rate is 12 percent per annum for all nonresidential real property, residential real property, and personal property.

(ii) Beginning January 1, 2023, interest rates are as follows:

(A) Nine percent per annum for all residential real property with four or fewer units per taxable parcel, including manufactured/mobile homes as defined in RCW 59.20.030 for taxes levied in 2023 or after; or

(B) Twelve percent per annum for all other property.

(b)(i) Penalties on delinquent taxes under this section may not be assessed beginning January 1, 2022, and through December 31, 2022.

(ii) Beginning January 1, 2023, delinquent taxes under this section are subject to penalties for nonresidential real property, residential real property with greater than four units per taxable parcel, and for personal property as follows:

(A) A penalty of three percent of the amount of tax delinquent is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(B) An additional penalty of eight percent is assessed on the delinquent tax amount on December 1st of the year in which the tax is due.

(iii) Penalties may not be assessed on residential real property with four or fewer units per taxable parcel, including manufactured/mobile homes as defined in RCW 59.20.030.

(c)(i) If a taxpayer is successfully participating in a payment agreement under subsection (15)(b) of this section or a partial payment program pursuant to subsection (15)(c) of this section, the county treasurer may not assess additional penalties on delinquent taxes that are included within the payment agreement. Interest and penalties that have been assessed prior to the payment agreement remain due and payable as provided in the payment agreement.

(ii) The following remain due and payable as provided in any payment agreement:

(A) Interest that has been assessed prior to the payment agreement; and

(B) Penalties assessed prior to January 1, 2022, that have been assessed prior to the payment agreement.

(6) A county treasurer must provide notification to each taxpayer whose taxes have become delinquent under subsections (4) and (5) of this section. The delinquency notice must specify where the taxpayer can obtain information regarding:

(a) Any current tax or special assessments due as of the date of the notice;

(b) Any delinquent tax or special assessments due, including any penalties and interest, as of the date of the notice; and

(c) Where the taxpayer can pay his or her property taxes directly and contact information, including but not limited to the phone number, for the statewide foreclosure hotline recommended by the Washington state housing finance commission.

(7) Within ((~~ninety~~)) 90 days after the expiration of two years from the date of delinquency (when a taxpayer's taxes have become delinquent), the county treasurer must provide the name and property address of the delinquent taxpayer to a homeownership resource center or any other designated local or state entity recommended by the Washington state housing finance commission.

Collection of foreclosure costs.

(8)(a) When real property taxes become delinquent and prior to the filing of the certificate of delinquency, the treasurer is authorized to assess and collect tax foreclosure avoidance costs.

(b) When tax foreclosure avoidance costs are collected, such costs must be credited to the county treasurer service fund account, except as otherwise directed.

(c) For purposes of chapter 84.64 RCW, any taxes, interest, or penalties deemed delinquent under this section remain delinquent until such time as all taxes, interest, and penalties for the tax year in which the taxes were first due and payable have been paid in full.

Periods of armed conflict.

(9) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict regarding delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

State of emergency.

(10) During a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

Retention of funds from interest.

(11) All collections of interest on delinquent taxes must be credited to the county current expense fund.

(12) For purposes of this chapter, "interest" means both interest and penalties.

Retention of funds from property foreclosures and sales.

(13) The direct cost of foreclosure and sale of real property, and the direct fees and costs of distraint and sale of personal property, for delinquent taxes, must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint, and sale because of delinquent taxes without regard to budget limitations and not subject to indirect costs of other charges.

Tax due dates and options for tax payment collections.

Electronic billings and payments.

(14) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, interest, and charges by electronic billing and payment. Electronic billing and payment may be used as an option by the taxpayer, but the treasurer may not require the use of electronic billing and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for:

(a) Delinquent tax year payments; and

(b) Prepayments of current tax.

Tax payments.

Prepayment for current taxes.

(15)(a) The treasurer may accept prepayments for current year taxes by any means authorized. All prepayments must be paid in full by the due date specified in subsection (16) of this section.

Payment agreements for current year taxes.

(b)(i) The treasurer may provide, by electronic means or otherwise, a payment agreement that provides for payment of current year taxes, inclusive of prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for current year taxes.

Payment agreements for delinquent year taxes.

(ii)(A) The treasurer may provide, by electronic means or otherwise, a payment agreement for payment of past due delinquencies. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for past due delinquent taxes and charges.

(B) Tax payments received by a treasurer for delinquent year taxes from a taxpayer participating on a payment agreement must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Partial payments: Acceptance of partial payments for current and delinquent taxes.

(c)(i) In addition to the payment agreement program in (b) of this subsection, the treasurer may accept partial payment of any current and delinquent taxes including interest and penalties by any means authorized including electronic bill presentment and payments.

(ii) All tax payments received by a treasurer for delinquent year taxes from a taxpayer paying a partial payment must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Payment for delinquent taxes.

(d) Payments on past due taxes must include collection of the oldest delinquent year, which includes interest, penalties, and taxes within an eighteen-month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.

Due date for tax payments.

(16) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the ((~~thirtieth~~)) 30th day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the following ((~~thirty-first~~)) 31st of October and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.

Electronic funds transfers.

(17) A county treasurer may authorize payment of:

(a) Any current property taxes due under this chapter by electronic funds transfers on a monthly or other periodic basis; and

(b) Any past due property taxes, penalties, and interest under this chapter by electronic funds transfers on a monthly or other periodic basis. Delinquent taxes are subject to interest and penalties, as provided in subsection (5) of this section. All tax payments received by a treasurer from a taxpayer paying delinquent year

taxes must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Payment for administering prepayment collections.

(18) The treasurer must pay any collection costs, investment earnings, or both on past due payments or prepayments to the credit of a county treasurer service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting prepayments.

Waiver of interest and penalties for qualified taxpayers subject to foreclosure.

(19) No earlier than ((~~sixty~~)) 60 days prior to the date that is three years after the date of delinquency, the treasurer must waive all outstanding interest and penalties on delinquent taxes due from a taxpayer if the property is subject to an action for foreclosure under chapter 84.64 RCW and the following requirements are met:

(a) The taxpayer is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor;

(b) The taxpayer occupies the property as their principal place of residence; and

(c) The taxpayer has not previously received a waiver on the property as provided under this subsection.

Definitions.

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

(a) "Electronic billing and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

(c) "Tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and

(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

Passed by the Senate April 19, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 377

[Senate Bill 5765]

INTERSTATE 5 BRIDGE REPLACEMENT PROJECT—TOLLING

AN ACT Relating to tolling authorization for the Interstate 5 bridge replacement project; amending RCW 43.84.092 and 43.84.092; reenacting and amending RCW 47.56.810; adding new

sections to chapter 47.56 RCW; creating new sections; repealing RCW 47.56.892; providing an effective date; providing a contingent effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the replacement and improvement of the Interstate 5 Columbia river bridge is critical for the west coast's transportation system and for the safety of Washington and Oregon drivers. The interstate bridge includes two side-by-side structures built in 1917 and 1958. In 2019, approximately 143,000 vehicles traveled across the interstate bridge each weekday. In 2017, about $71,000,000 in freight commodity value crossed the river each day. Collisions on and near the bridge occur at a rate almost twice as high as other similar urban highways, and the aging bridges are vulnerable to earthquakes. Replacing these structures and making multimodal improvements to facilitate travel in the bistate corridor is essential for the economy of the region. Although Washington state has pledged $1,000,000,000, and expects an equivalent investment of $1,000,000,000 from Oregon state, to help finance replacement of the bridge, funding from tolls and other sources will be necessary to complete and maintain the project. The legislature finds that Oregon state has already authorized tolls to be imposed on the Oregon portion of the Interstate 5 bridge replacement project, and that providing tolling authorization within Washington state will help make the project better situated to receive funding from other sources, including federal funding. As a result, and to align with the efforts of Oregon state, the legislature intends to provide tolling authorization for the Interstate 5 bridge replacement project.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

(1) For the purposes of this section and sections 3, 4, and 8 of this act, "Interstate 5 bridge replacement project" means the bistate, multimodal corridor improvement program between the state route number 500 interchange in Vancouver, Washington and the Victory Boulevard interchange in Portland, Oregon.

(2) The Interstate 5 bridge replacement project is designated an eligible toll facility. Tolls are authorized to be imposed on the Interstate 5 bridge replacement project. Tolls may be charged for travel only on the existing and replacement Interstate 5 Columbia river bridges. Tolls may not be charged for travel on the Washington state portion of Interstate 205. Toll revenue generated on the Interstate 5 bridge replacement project must be expended only as allowed under RCW 47.56.820.

NEW SECTION. **Sec. 3.** A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

(1) A special account to be known as the Interstate 5 bridge replacement project account is created in the state treasury.

(2) Deposits to the account must include:

(a) All proceeds of bonds and loans issued on behalf of Washington state for the Interstate 5 bridge replacement project, including any capitalized interest;

(b) All net tolls and other revenues received from the operation of the Interstate 5 bridge replacement project as a toll facility;

(c) The Washington state portion of any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, the Washington state portion of proceeds from the sale of any surplus real property acquired for the Interstate 5 bridge replacement project; and

(e) The Washington state portion of all damages, liquidated or otherwise, collected under any contract involving the Interstate 5 bridge replacement project.

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

NEW SECTION. **Sec. 4.** A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

For the Interstate 5 bridge replacement project, the tolling authority may enter into a bistate agreement with the Oregon state transportation commission regarding the mutual or joint setting, adjustment, and review of toll rates and exemptions as the tolling authority may find necessary to carry out the purposes of this section. The toll rates established pursuant to the bistate agreement may not be set at a rate that exceeds the highest toll rate allowed on any of the other toll facilities in Washington, unless the legislature provides direction to do so in duly enacted legislation. The toll rates established pursuant to the bistate agreement may not be set to pay for all of the operational and administrative costs of Oregon's tolling system. The Washington tolling authority must require toll rates that specifically cover the Interstate 5 Columbia river bridge without subsidizing other Oregon toll facilities. Washington residents are already paying for toll system operations of the Washington department of transportation, and therefore the agreement must recognize that it would be unfair for the toll rates on the Interstate 5 Columbia river bridge to pay for administrative and program costs of the Oregon department of transportation that are created with the expectation to benefit multiple tolled facilities in Oregon.

Sec. 5. RCW 47.56.810 and 2011 c 377 s 7 and 2011 c 369 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise:

(1) "Eligible toll facility" or "eligible toll facilities" means portions of the state highway system specifically identified by the legislature including, but not limited to, transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bistate facilities, and interconnections between highways. For purposes of a bistate facility, the legislature may define an "eligible toll facility" to include a part of a project that may extend beyond the state border.

(2) "Express toll lanes" means one or more high occupancy vehicle lanes of a highway in which the department charges tolls primarily as a means of regulating access to or use of the lanes to maintain travel speed and reliability.

(3) "Toll revenue" or "revenue from an eligible toll facility" means toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of transportation facilities in the state, including eligible toll facilities.

(4) "Tolling authority" means the governing body that is legally empowered to review and adjust toll rates. Unless otherwise delegated, the transportation commission is the tolling authority for all state highways.

Sec. 6. RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

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

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

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

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense

account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 5 bridge replacement project account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account,

the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

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

Sec. 7. RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

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

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts

as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

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

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 5 bridge replacement project account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial

retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water

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

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

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

NEW SECTION. **Sec. 8.** Except for sections 4, 6, and 7 of this act, this act takes effect upon, and tolls may not be collected on the Interstate 5 bridge replacement project until: (1) Certification of the secretary of transportation to the governor that the department of transportation has received satisfactory evidence that a sufficient federal funding plan is in place and that sufficient state and local funds are available to complete the Interstate 5 bridge replacement project; and (2) the bistate agreement described in section 4 of this act has taken effect.

NEW SECTION. **Sec. 9.** The secretary of transportation must provide notice that the governor has received certification as described under section 8(1) of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the secretary. Additionally, the tolling authority, as defined in RCW 47.56.810, must provide written notice that the bistate agreement described under section 4 of this act has taken effect 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 tolling authority.

NEW SECTION. **Sec. 10.** RCW 47.56.892 (Columbia river crossing project—Agreements with the Oregon state transportation commission) and 2012 c 36 s 4 are each repealed.

NEW SECTION. **Sec. 11.** Section 6 of this act expires July 1, 2024.

NEW SECTION. **Sec. 12.** Section 7 of this act takes effect July 1, 2024.

Passed by the Senate April 20, 2023.

Passed by the House April 18, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 378

[Engrossed Substitute House Bill 1019]

PESTICIDE ADVISORY BOARD

AN ACT Relating to creating the pesticide advisory board; adding new sections to chapter 17.21 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that agency decisions related to the regulation of pesticides benefit from robust community and stakeholder engagement. The legislature intends to create a formal and permanent advisory board to advise the department of agriculture on any or all problems relating to the use and application of pesticides in the state, with the exception of matters covered by the pesticide application safety committee.

NEW SECTION. **Sec. 2.** A new section is added to chapter 17.21 RCW to read as follows:

(1) The pesticide advisory board is established to advise the director on any or all problems relating to the use and application of pesticides in the state except for matters covered by the pesticide application safety committee created in RCW 70.104.110, with members as provided in this subsection.

(a) Voting members:

(i) One pesticide applicator licensed to operate agricultural aerial apparatus;

(ii) One licensed pest control consultant, or one licensed pesticide dealer or pesticide dealer manager;

(iii) One member representing the agricultural chemical industry;

(iv) One agricultural producer;

(v) The department's pesticide management division assistant director or the assistant director's designee;

(vi) One toxicologist or pesticide investigations manager from the department of health;

(vii) The department of labor and industries' division of occupational safety and health assistant director or the assistant director's designee;

(viii) One member representing the environmental community;

(ix) One representative from a federally recognized Indian tribe or an interested tribe that does not regulate pesticides;

(x) One farmworker advocate;

(xi) One migrant farmworker;

(xii) One at-large member as determined by the director; and

(xiii) One member representing the household and commercial products association.

(b) Nonvoting members:

(i) The director of the following agencies or the director's designees:

(A) The department of labor and industries;

(B) The department of fish and wildlife;

(C) The department of ecology; and

(D) The liquor and cannabis board;

(ii) The commissioner of public lands or the commissioner's designee;

(iii) The commissioner of the employment security department or the commissioner's designee;

(iv) The environmental health specialist from the department of health;

(v) One entomologist in public service;

(vi) One toxicologist in public service;

(vii) One member from the national pesticide information center;

(viii) One pesticide coordinator from Washington State University;

(ix) One agricultural health network advisor from the Pacific Northwest agricultural safety and health center;

(x) The department's pollinator health coordinator, apiarist, or both;

(xi) One commercial beekeeper;

(xii) One member representing the United States environmental protection agency region 10;

(xiii) One member representing the department of transportation with expertise in vegetation management;

(xiv) One member representing the noxious weed control board; and

(xv) One member representing an organization made up of agricultural producers, timber producers, wood preservers, and others whose mission includes supporting the science behind the responsible use of pesticides in both agriculture and forestry.

(2) The director shall appoint each member of the pesticide advisory board for terms of four years. Members may be appointed for successive four-year terms at the discretion of the director. The terms must be staggered so that approximately one-fourth of the terms expire on June 30th of each calendar year. In making appointments, the director shall seek nominations from affected agricultural and environmental groups. The director may remove any member of the pesticide advisory board prior to the expiration of his or her term of appointment for cause.

(3) The director shall attempt to fill any vacancy on the pesticide advisory board within 30 days for the remainder of its term.

(4) The director, in consultation with the pesticide advisory board, shall form work groups that include individuals with the appropriate expertise to inform the board on issues relating to specific pesticides or uses. Work groups created under this subsection may include individuals who are not members of the pesticide advisory board.

NEW SECTION. **Sec. 3.** A new section is added to chapter 17.21 RCW to read as follows:

The pesticide advisory board established in section 2 of this act shall elect a chair from among its membership. The pesticide advisory board shall meet from time to time at the call of the director, chair of the board, or a majority of the board.

Passed by the House April 14, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 379

[Engrossed Second Substitute House Bill 1238]
SCHOOL MEALS—VARIOUS PROVISIONS

AN ACT Relating to providing free school meals for all; amending RCW 28A.150.260, 28A.150.260, 28A.405.415, and 28A.235.300; reenacting and amending RCW 28A.235.160; adding

new sections to chapter 28A.235 RCW; creating new sections; repealing RCW 28A.235.140; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that adequate childhood nutrition is indispensable for proper intellectual, academic, and social development. However, many Washington families continue to face economic and other challenges that impact students' ability to consistently access nutritional meals that support their growth and well-being.

(2) The legislature has acknowledged the widespread but often concealed harms of childhood hunger by enacting legislation in recent years to address this issue. For example, in 2018, the legislature established a breakfast after the bell program in high-needs schools, in 2021, the legislature eliminated lunch copays for qualifying students, and in 2022, the legislature expanded school participation in the federal community eligibility provision, a program that provides no-charge meals for all students at participating schools.

(3) These efforts and others have significantly increased student access to meals provided without charge, but the problems of food insecurity, with its lasting physiological and psychological harms, remain a reality for too many families, too many schools, and too many children.

(4) The legislature recognizes also that the myriad difficulties of the COVID-19 pandemic uniquely impacted school districts and food delivery systems. While the challenges of responding to the unprecedented disruptions of a global pandemic continue to reverberate in public schools, school districts, through hard work, federal approvals, and appropriate financial supports, successfully demonstrated their ability to provide meals without charge to all requesting students. However, federal provisions permitting meals to be served at no charge to all students during the school year have expired, so the task of broadly responding to student meal needs has returned to the states.

(5) Although childhood hunger persists, the legislature recognizes that the state and school districts have the needed infrastructure and ability to respond to the issue, including the potential to access or leverage federal funds that may become available for school meal programs. The legislature, therefore, intends to continue its multiyear effort to eliminate hunger and food insecurity within public schools by expanding the provision of meals without charge to the state's youngest K-12 students.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.235 RCW to read as follows:

(1)(a) In accordance with (b) and (c) of this subsection, beginning with the 2023-24 school year, each school district shall provide breakfast and lunch each school day to any student who requests a breakfast, lunch, or both. The school district must provide the meals at no charge to the student and without consideration of the student's eligibility for a federally reimbursed free or reduced-price meal. Meals provided under this section must be nutritiously adequate and qualify for federal reimbursement under the school lunch program or the school breakfast program, and students are not eligible for more than one meal in a meal service period.

(b) The requirements in (a) of this subsection apply to public schools in which:

(i) Educational services are provided to students in any of the grades of kindergarten through four; and

(ii) 30 percent or more of the enrolled students meet federal eligibility requirements for free or reduced-price lunches.

(c) The obligation to provide breakfast and lunch to students under this subsection (1):

(i) Begins in the 2023-24 school year for schools in which 40 percent or more of the enrolled students meet federal eligibility requirements for free or reduced-price lunches;

(ii) Begins in the 2024-25 school year for schools in which the percentage of enrolled students that meet federal eligibility requirements for free or reduced-price lunches is at least 30 percent and less than 40 percent; and

(iii) Does not apply to schools participating in the United States department of agriculture's community eligibility provision under RCW 28A.235.300 that have not completed the duration of the provision's four-year cycle.

(2) The office of the superintendent of public instruction shall reimburse school districts, subject to the requirements of subsection (1) of this section, on a per meal reimbursement basis for meals that are not already reimbursed at the United States department of agriculture's free rate. The additional state reimbursement amount must be the difference between the United States department of agriculture's free rate and the United States department of agriculture's paid rate.

(3) School districts, in accordance with RCW 28A.235.160, may be exempted from the requirements of this section.

(4) To maximize federal funding, school districts must continue collecting free and reduced-price meal eligibility applications where applicable and run direct certification at least monthly in accordance with RCW 28A.235.280. School districts shall also annually monitor data for eligibility in the United States department of agriculture community eligibility provision and apply where eligible as required in RCW 28A.235.300.

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

(a) "Public school" has the same meaning as in RCW 28A.150.010.

(b) "School breakfast program" has the same meaning as in RCW 28A.235.160.

(c) "School lunch program" has the same meaning as in RCW 28A.235.160.

(6) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020, and applies to charter schools established under chapter 28A.710 RCW and state-tribal education compact schools established under chapter 28A.715 RCW to the same extent as it applies to school districts.

(7) The requirements in this section shall lapse if the federal reimbursement for any school breakfasts or lunches is eliminated.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.235 RCW to read as follows:

Public schools, as defined in RCW 28A.150.010, providing schoolmeals to students are encouraged to buy Washington produced foodwhenever practicable and cost is comparable to non-Washington producedfood.

Sec. 4. RCW 28A.235.160 and 2021 c 74 s 2 are each reenacted and amended to read as follows:

(1) For the purposes of this section:

(a) "Free or reduced-price lunch" means a lunch served by a school district participating in the national school lunch program to a student qualifying for national school lunch program benefits based on family size-income criteria.

(b) "Lunch copay" means the amount a student who qualifies for a reduced-price lunch is charged for a reduced-price lunch.

(c) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

(d) "School lunch program" means a meal program meeting the requirements defined ((~~by the superintendent of public instruction under subsection (2)(b) of this section~~)) in Title 42 U.S.C. Sec. 1751 et seq.

(e) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal funds for school breakfasts served to children from low-income families.

(f) "Summer food service program" means a meal or snack program meeting the requirements defined by the superintendent of public instruction under subsection (4) of this section.

(2) School districts shall implement a school lunch program in each public school in the district in which educational services are provided to children in any of the grades of kindergarten through four and in which ((~~twenty-five~~)) 25 percent or more of the enrolled students qualify for a free or reduced-price lunch. In accordance with section 2 of this act, school districts shall provide meals at no charge to all requesting students at public schools that meet the criteria established in section 2(1) (b) and (c) of this act. In developing and implementing its school lunch program and school breakfast program, each school district may consult with an advisory committee including school staff, community members, and others appointed by the board of directors of the district.

(((~~(a) Applications to determine free or reduced-price lunch eligibility shall be distributed and collected for all households of children in schools containing any of the grades kindergarten through four and in which there are no United States department of agriculture child nutrition programs. The applications that are collected must be reviewed to determine eligibility for free or reduced-price lunches. Nothing in this section shall be construed to require completion or submission of the application by a parent or guardian.~~

~~(b) Using the most current available school data on free and reduced-price lunch eligibility, the superintendent of public instruction shall adopt a schedule for implementation of school lunch programs at each school required to offer such a program under subsection (2) of this section as follows:~~

~~(i) Schools not offering a school lunch program and in which twenty-five percent or more of the enrolled students are eligible for free or reduced-price lunch shall implement a school lunch program not later than the second day of school in the 2005-06 school year and in each school year thereafter.~~

~~(ii) The superintendent shall establish minimum standards defining the lunch meals to be served, and such standards must be sufficient to qualify the meals for any available federal reimbursement.~~

~~(iii) Nothing in this section shall be interpreted to prevent a school from implementing a school lunch program earlier than the school is required to do so.~~))

(3) To the extent funds are appropriated for this purpose, each school district shall implement a school breakfast program in each school where more than ((~~forty~~)) 40 percent of students eligible to participate in the school lunch program qualify for free or reduced-price meal reimbursement ((~~by the school year 2005-06~~)). Beginning in the 2023-24 school year and in accordance with section 2 of this act, school districts shall implement a breakfast program in each school providing meals at no charge to students. For the second year before the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of public instruction to determine which schools within the district will qualify for this requirement. Schools where lunch programs start after the 2003-04 school year, where ((~~forty~~)) 30 percent of students qualify for free or reduced-price meals, must begin school breakfast programs the second year following the start of a lunch program.

(4) Each school district shall implement a summer food service program in each public school in the district in which a summer program of academic, enrichment, or remedial services is provided and in which 50 percent or more of the children enrolled in the school ((~~qualify~~)) meet federal eligibility requirements for free or reduced-price lunch. However, the superintendent of public instruction shall develop rules establishing criteria to permit an exemption for a school that can demonstrate availability of an adequate alternative summer feeding program. Sites providing meals should be open to all children in the area, unless a compelling case can be made to limit access to the program. The superintendent of public instruction shall adopt a definition of compelling case and a schedule for implementation as follows:

(a) Beginning the summer of 2005 if the school currently offers a school breakfast or lunch program; or

(b) Beginning the summer following the school year during which a school implements a school lunch program under ((~~subsection (2)(b) of~~)) this section.

(5) Schools not offering a breakfast or lunch program may meet the meal service requirements of subsections (2)(((~~(b)~~))) and (4) of this section through any of the following:

(a) Preparing the meals on-site;

(b) Receiving the meals from another school that participates in a United States department of agriculture child nutrition program; or

(c) Contracting with a nonschool entity that is a licensed food service establishment under RCW 69.07.010.

(6) Requirements that school districts have a school lunch, breakfast, or summer nutrition program under this section shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the state Constitution.

(7) Beginning in the 2021-22 school year, school districts with school lunch programs must eliminate lunch copays for students in prekindergarten through 12th grade who qualify for reduced-price lunches, and the superintendent of public instruction must allocate funding for this purpose.

(8) The requirements in this section shall lapse if the federal reimbursement for any school breakfasts, lunches, or summer food service programs is eliminated.

(9) School districts may be exempted from the requirements of this section and section 2 of this act by showing good cause why they cannot comply with the office of the superintendent of public instruction to the extent that such exemption is not in conflict with federal or state law. The process and criteria by which school districts ((~~are~~)) may be exempted shall be developed by rule and revised if necessary by the office of the superintendent of public instruction in consultation with representatives of school directors, school food service, community-based organizations, and ((~~the Washington state PTA~~)) a state organization of parents and teachers.

Sec. 5. RCW 28A.150.260 and 2022 c 109 s 3 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2)(a) The distribution formula under this section shall be for allocation purposes only. Except as may be required under subsections (4)(b) and (c), (5)(b), and (9) of this section, chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(b) To promote transparency in state funding allocations, the superintendent of public instruction must report state per-pupil allocations for each school district for the general apportionment, special education, learning assistance, transitional bilingual, highly capable, and career and technical education programs. The superintendent must report this information in a user-friendly format on the main page of the office's website. School districts must include a link to the superintendent's per-pupil allocations report on the main page of the school district's website. In addition, the budget documents published by the legislature for the enacted omnibus operating appropriations act must report statewide average per-pupil allocations for general apportionment and the categorical programs listed in this subsection.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade

levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has ((~~six hundred~~)) 600 average annual full-time equivalent students in grades nine through ((~~twelve~~)) 12;

(ii) A prototypical middle school has ((~~four hundred thirty-two~~)) 432 average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has ((~~four hundred~~)) 400 average annual full-time equivalent students in grades kindergarten through six.

(4)(a)(i) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

	General education average class size
Grades K-3	17.00
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(ii) The minimum class size allocation for each prototypical high school shall also provide for enhanced funding for class size reduction for two laboratory science classes within grades nine through ((~~twelve~~)) 12 per full-time equivalent high school student multiplied by a laboratory science course factor of 0.0833, based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours in RCW 28A.150.220, and providing at least one teacher planning period per school day:

	Laboratory science average class size
Grades 9-12	19.98

(b)(i) Beginning September 1, 2019, funding for average K-3 class sizes in this subsection (4) may be provided only to the extent of, and proportionate to, the school district's demonstrated actual class size in grades K-3, up to the funded class sizes.

(ii) The office of the superintendent of public instruction shall develop rules to implement this subsection (4)(b).

(c)(i) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

	Career and technical education average class size
Approved career and technical education offered at the middle school and high school level	23.00
Skill center programs meeting the standards established by the office of the superintendent of public instruction	19.00

(ii) Funding allocated under this subsection (4)(c) is subject to RCW 28A.150.265.

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than ((~~fifty~~)) 50 percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for advanced placement and international baccalaureate courses.

(5)(a) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	1.253	1.353	1.880
Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs	0.663	0.519	0.523
Teaching assistance, including any aspect of educational instructional services provided by classified employees	0.936	0.700	0.652
Office support and other noninstructional aides	2.012	2.325	3.269
Custodians	1.657	1.942	2.965
Nurses	0.246	0.336	0.339
Social workers	0.132	0.033	0.052
Psychologists	0.046	0.009	0.021
Counselors	0.660	1.383	2.706
Classified staff providing student and staff safety	0.079	0.092	0.141
Parent involvement coordinators	0.0825	0.00	0.00

(b)(i) The superintendent may only allocate funding, up to the combined minimum allocations, for nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, and parent involvement coordinators under (a) and (c) of this subsection to the extent of and proportionate to a school district's demonstrated actual ratios of: Full-time equivalent physical, social, and emotional support staff to full-time equivalent students.

(ii) The superintendent must adopt rules to implement this subsection (5)(b) and the rules must require school districts to prioritize funding allocated as required by (b)(i) of this subsection for physical, social, and emotional support staff who hold a valid educational staff associate certificate appropriate for the staff's role.

(iii) For the purposes of this subsection (5)(b), "physical, social, and emotional support staff" include nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, parent involvement coordinators, and other school district employees and contractors who provide physical, social, and emotional support to students as defined by the superintendent.

(c) For the 2023-24 school year, in addition to the minimum allocation under (a) of this subsection, the following additional staffing units for each level of prototypical school will be provided:

	Elementary School	Middle School	High School
Nurses	0.170	0.276	0.243
Social workers	0.090	0.027	0.037
Psychologists	0.029	0.007	0.014
Counselors	0.167	0.167	0.176

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

	Staff per 1,000 K-12 students
Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time

equivalent student for the following materials, supplies, and operating costs as provided in the 2017-18 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

	Per annual average full-time equivalent student in grades K-12
Technology	$130.76
Utilities and insurance	$355.30
Curriculum and textbooks	$140.39
Other supplies	$278.05
Library materials	$20.00
Instructional professional development for certificated and classified staff	$21.71
Facilities maintenance	$176.01
Security and central office administration	$121.94

(b) In addition to the amounts provided in (a) of this subsection, beginning in the 2014-15 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average full-time equivalent student in grades nine through ((~~twelve~~)) 12 for the following materials, supplies, and operating costs, to be adjusted annually for inflation:

	Per annual average full-time equivalent student in grades 9-12
Technology	$36.35
Curriculum and textbooks	$39.02
Other supplies	$77.28
Library materials	$5.56
Instructional professional development for certificated and classified staff	$6.04

(9) In addition to the amounts provided in subsection (8) of this section and subject to RCW 28A.150.265, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through ((~~twelve~~)) 12;

(b) Preparatory career and technical education courses for students in grades nine through ((~~twelve~~)) 12 offered in a high school; and

(c) Preparatory career and technical education courses for students in grades ((~~eleven~~)) 11 and ((~~twelve~~)) 12 offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a)(i) To provide supplemental instruction and services for students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the greater of either: The district percentage of students in kindergarten through grade ((~~twelve~~)) 12 who were eligible for free or reduced-price meals for the school year immediately preceding the district's participation, in whole or part,

in the United States department of agriculture's community eligibility provision, or the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall, except as provided in (a)(iii) of this subsection, provide for each level of prototypical school resources to provide, on a statewide average, 2.3975 hours per week in extra instruction with a class size of ((~~fifteen~~)) 15 learning assistance program students per teacher.

(ii) In addition to funding allocated under (a)(i) of this subsection, to provide supplemental instruction and services for students who are not meeting academic standards in qualifying schools. A qualifying school, except as provided in (a)(iv) of this subsection, means a school in which the three-year rolling average of the prior year total annual average enrollment that qualifies for free or reduced-price meals equals or exceeds ((~~fifty~~)) 50 percent or more of its total annual average enrollment. A school continues to meet the definition of a qualifying school if the school: Participates in the United States department of agriculture's community eligibility provision; and met the definition of a qualifying school in the year immediately preceding their participation. The minimum allocation for this additional high poverty-based allocation must provide for each level of prototypical school resources to provide, on a statewide average, 1.1 hours per week in extra instruction with a class size of ((~~fifteen~~)) 15 learning assistance program students per teacher, under RCW 28A.165.055, school districts must distribute the high poverty-based allocation to the schools that generated the funding allocation.

(iii) For the 2024-25 and 2025-26 school years, allocations under (a)(i) of this subsection for school districts providing meals at no charge to students under section 2 of this act that are not participating, in whole or in part, in the United States department of agriculture's community eligibility provision shall be based on the school district percentage of students in grades K-12 who were eligible for free or reduced-price meals in school years 2019-20 through 2022-23 or the prior school year, whichever is greatest.

(iv) For the 2024-25 and 2025-26 school years, a school providing meals at no charge to students under section 2 of this act that is not participating in the department of agriculture's community eligibility provision continues to meet the definition of a qualifying school under (a)(ii) of this subsection if the school met the definition during one year of the 2019-20 through 2022-23 school years, or in the prior school year.

(b)(i) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction for students in grades kindergarten through six and 6.7780 hours per week in extra instruction for students in grades seven through ((~~twelve~~)) 12, with ((~~fifteen~~)) 15 transitional bilingual instruction program students per teacher. Notwithstanding other provisions of this subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a commensurate reduced

allocation for students needing less intensive intervention, as detailed in the omnibus appropriations act.

(ii) To provide supplemental instruction and services for students who have exited the transitional bilingual program, allocations shall be based on the head count number of students in each school who have exited the transitional bilingual program within the previous two years based on their performance on the English proficiency assessment and are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.040(1)(g). The minimum allocation for each prototypical school shall provide resources to provide, on a statewide average, 3.0 hours per week in extra instruction with ((~~fifteen~~)) 15 exited students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on 5.0 percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

Sec. 6. RCW 28A.150.260 and 2022 c 109 s 4 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2)(a) The distribution formula under this section shall be for allocation purposes only. Except as may be required under subsections (4)(b) and (c), (5)(b), and (9) of this section, chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(b) To promote transparency in state funding allocations, the superintendent of public instruction must report state per-pupil allocations for each school district for the general apportionment, special education, learning assistance, transitional bilingual, highly capable, and career and technical education programs. The superintendent must report this information in a user-friendly format on the main page of the office's website. School districts must include a link to the superintendent's per-pupil allocations report on the main page of the school district's website. In addition, the budget documents published by the legislature for the enacted omnibus operating appropriations act must report statewide average per-pupil allocations for general apportionment and the categorical programs listed in this subsection.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The

allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has ((~~six hundred~~)) 600 average annual full-time equivalent students in grades nine through ((~~twelve~~)) 12;

(ii) A prototypical middle school has ((~~four hundred thirty-two~~)) 432 average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has ((~~four hundred~~)) 400 average annual full-time equivalent students in grades kindergarten through six.

(4)(a)(i) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

	General education average class size
Grades K-3	17.00
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(ii) The minimum class size allocation for each prototypical high school shall also provide for enhanced funding for class size reduction for two laboratory science classes within grades nine through ((~~twelve~~)) 12 per full-time equivalent high school student multiplied by a laboratory science course factor of 0.0833, based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours in RCW 28A.150.220, and providing at least one teacher planning period per school day:

	Laboratory science average class size
Grades 9-12	19.98

(b)(i) Beginning September 1, 2019, funding for average K-3 class sizes in this subsection (4) may be provided only to the extent of, and proportionate to, the school district's demonstrated actual class size in grades K-3, up to the funded class sizes.

(ii) The office of the superintendent of public instruction shall develop rules to implement this subsection (4)(b).

(c)(i) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

	Career and technical

	education average class size
Approved career and technical education offered at the middle school and high school level	23.00
Skill center programs meeting the standards established by the office of the superintendent of public instruction	19.00

(ii) Funding allocated under this subsection (4)(c) is subject to RCW 28A.150.265.

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than ((~~fifty~~)) 50 percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for advanced placement and international baccalaureate courses.

(5)(a) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	1.253	1.353	1.880
Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs	0.663	0.519	0.523
Teaching assistance, including any aspect of educational instructional services provided by classified employees	0.936	0.700	0.652
Office support and other noninstructional aides	2.012	2.325	3.269
Custodians	1.657	1.942	2.965
Nurses	0.585	0.888	0.824
Social workers	0.311	0.088	0.127
Psychologists	0.104	0.024	0.049
Counselors	0.993	1.716	3.039
Classified staff providing student and staff safety	0.079	0.092	0.141
Parent involvement coordinators	0.0825	0.00	0.00

(b)(i) The superintendent may only allocate funding, up to the combined minimum allocations, for nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, and parent involvement coordinators under (a) of this subsection to the extent of and proportionate to a

school district's demonstrated actual ratios of: Full-time equivalent physical, social, and emotional support staff to full-time equivalent students.

(ii) The superintendent must adopt rules to implement this subsection (5)(b) and the rules must require school districts to prioritize funding allocated as required by (b)(i) of this subsection for physical, social, and emotional support staff who hold a valid educational staff associate certificate appropriate for the staff's role.

(iii) For the purposes of this subsection (5)(b), "physical, social, and emotional support staff" include nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, parent involvement coordinators, and other school district employees and contractors who provide physical, social, and emotional support to students as defined by the superintendent.

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

	Staff per 1,000 K-12 students
Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs as provided in the 2017-18 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

	Per annual average full-time equivalent student in grades K-12
Technology	$130.76
Utilities and insurance	$355.30
Curriculum and textbooks	$140.39
Other supplies	$278.05
Library materials	$20.00
Instructional professional development for certificated and classified staff	$21.71
Facilities maintenance	$176.01
Security and central office administration	$121.94

(b) In addition to the amounts provided in (a) of this subsection, beginning in the 2014-15 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average full-time equivalent student in grades nine through ((~~twelve~~)) 12 for the following materials, supplies, and operating costs, to be adjusted annually for inflation:

	Per annual average full-time equivalent student in grades 9-12
Technology	$36.35
Curriculum and textbooks	$39.02
Other supplies	$77.28
Library materials	$5.56
Instructional professional development for certificated and classified staff	$6.04

(9) In addition to the amounts provided in subsection (8) of this section and subject to RCW 28A.150.265, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through ((~~twelve~~)) 12;

(b) Preparatory career and technical education courses for students in grades nine through ((~~twelve~~)) 12 offered in a high school; and

(c) Preparatory career and technical education courses for students in grades ((~~eleven~~)) 11 and ((~~twelve~~)) 12 offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a)(i) To provide supplemental instruction and services for students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the greater of either: The district percentage of students in kindergarten through grade ((~~twelve~~)) 12 who were eligible for free or reduced-price meals for the school year immediately preceding the district's participation, in whole or part, in the United States department of agriculture's community eligibility provision, or the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall, except as provided in (a)(iii) of this subsection, provide for each level of prototypical school resources to provide, on a statewide average, 2.3975 hours per week in extra instruction with a class size of ((~~fifteen~~)) 15 learning assistance program students per teacher.

(ii) In addition to funding allocated under (a)(i) of this subsection, to provide supplemental instruction and services for students who are not meeting academic standards in qualifying schools. A qualifying school, except as provided in (a)(iv) of this subsection, means a school in which the three-year rolling average of the prior year total annual average enrollment that qualifies for free or reduced-price meals equals or exceeds ((~~fifty~~)) 50 percent or more of its total annual average enrollment. A school continues to meet the definition of a qualifying school if the school: Participates in the United States department of agriculture's community eligibility provision; and met the definition of a

qualifying school in the year immediately preceding their participation. The minimum allocation for this additional high poverty-based allocation must provide for each level of prototypical school resources to provide, on a statewide average, 1.1 hours per week in extra instruction with a class size of ((~~fifteen~~)) 15 learning assistance program students per teacher, under RCW 28A.165.055, school districts must distribute the high poverty-based allocation to the schools that generated the funding allocation.

(iii) For the 2024-25 and 2025-26 school years, allocations under (a)(i) of this subsection for school districts providing meals at no charge to students under section 2 of this act that are not participating, in whole or in part, in the United States department of agriculture's community eligibility provision shall be based on the school district percentage of students in grades K-12 who were eligible for free or reduced-price meals in school years 2019-20 through 2022-23 or the prior school year, whichever is greatest.

(iv) For the 2024-25 and 2025-26 school years, a school providing meals at no charge to students under section 2 of this act that is not participating in the department of agriculture's community eligibility provision continues to meet the definition of a qualifying school under (a)(ii) of this subsection if the school met the definition during one year of the 2019-20 through 2022-23 school years, or in the prior school year.

(b)(i) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction for students in grades kindergarten through six and 6.7780 hours per week in extra instruction for students in grades seven through ((~~twelve~~)) 12, with ((~~fifteen~~)) 15 transitional bilingual instruction program students per teacher. Notwithstanding other provisions of this subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a commensurate reduced allocation for students needing less intensive intervention, as detailed in the omnibus appropriations act.

(ii) To provide supplemental instruction and services for students who have exited the transitional bilingual program, allocations shall be based on the head count number of students in each school who have exited the transitional bilingual program within the previous two years based on their performance on the English proficiency assessment and are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.040(1)(g). The minimum allocation for each prototypical school shall provide resources to provide, on a statewide average, 3.0 hours per week in extra instruction with ((~~fifteen~~)) 15 exited students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on 5.0 percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

Sec. 7. RCW 28A.405.415 and 2020 c 288 s 5 are each amended to read as follows:

(1) Certificated instructional staff who have attained certification from the national board for professional teaching standards shall receive a bonus each year in which they maintain the certification. The bonus shall be calculated as follows: The annual bonus shall be ((~~five thousand dollars~~)) $5,000 in the 2007-08 school year. Thereafter, the annual bonus shall increase by inflation, except that the bonus shall not be increased during the 2013-14 and 2014-15 school years.

(2)(a) Certificated instructional staff who have attained certification from the national board for professional teaching standards shall be eligible for bonuses in addition to that provided by subsection (1) of this section if the individual is in an instructional assignment in a school in which at least ((~~seventy~~)) 70 percent of the students qualify for the free and reduced-price lunch program.

(b) An individual is eligible for bonuses authorized under this subsection (2) if he or she is in an instructional assignment in a school that meets the definition of high poverty school as defined in rule by the office of the superintendent of public instruction in the school year immediately preceding the school's participation in the United States department of agriculture's community eligibility provision.

(c) For the 2024-25 and 2025-26 school years, individuals are eligible for bonuses under this subsection if they are in an instructional assignment in a school providing meals at no charge to students under section 2 of this act that met the definition of high poverty school as defined in rule by the office of the superintendent of public instruction during the 2022-23 school year.

(3) The amount of the additional bonus under subsection (2) of this section for those meeting the qualifications of subsection (2) of this section is ((~~five thousand dollars~~)) $5,000.

(4) The bonuses provided under this section are in addition to compensation received under a district's salary schedule adopted in accordance with RCW 28A.405.200 and shall not be included in calculations of a district's average salary and associated salary limitations under RCW 28A.400.200.

(5) The bonuses provided under this section shall be paid in a lump sum amount.

Sec. 8. RCW 28A.235.300 and 2022 c 7 s 1 are each amended to read as follows:

(1)(a) Except as provided otherwise by this section, each public school that has an identified student percentage of at least 40 percent((~~, or an identified student percentage of less than 40 percent if authorized by federal law,~~)) as determined annually by April 1st, must participate in the United States department of agriculture's community eligibility provision in the subsequent school year and throughout the duration of the community eligibility provision's four-year cycle.

(b) School districts, to the extent practicable, shall group public schools for purposes of maximizing the number of public schools eligible to participate in the community eligibility provision. Individual schools participating in a group may have less than 40 percent identified students, provided the average identified student percentage for the group is at least 40 percent.

(2) Public schools that, through an arrangement with a local entity, provide meals to all students and at no costs to the students are exempt from the requirements of this section.

(3) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020, and applies to charter schools established under chapter 28A.710 RCW and state-tribal education compact schools established under chapter 28A.715 RCW to the same extent as it applies to public schools and school districts.

(4) For the purposes of this section, "identified student" means a student who is directly certified for free school meals based on the student's participation in other means-tested assistance programs, and students who are categorically eligible for free school meals without an application and not subject to income verification.

NEW SECTION. **Sec. 9.** RCW 28A.235.140 (School breakfast programs) and 1993 c 333 s 1 & 1989 c 239 s 2 are each repealed.

NEW SECTION. **Sec. 10.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 11.** Section 5 of this act expires September 1, 2024.

NEW SECTION. **Sec. 12.** Section 6 of this act takes effect September 1, 2024.

Passed by the House April 18, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 380

[Substitute House Bill 1250]

LOW-INCOME HOME REHABILITATION PROGRAMS

AN ACT Relating to modifying the low-income home rehabilitation program; amending RCW 43.330.480, 43.330.482, and 43.330.488; reenacting and amending RCW 43.79A.040; adding new sections to chapter 43.330 RCW; repealing RCW 43.330.482 and 43.330.486; providing an effective date; providing a contingent effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.330.480 and 2017 c 285 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) "Home" means a single-family residential structure.

(2) "Home rehabilitation" means residential repairs and improvements that address health, safety, and durability issues in existing housing in rural areas.

(3) "Homeowner" means a person who owns and resides permanently in the home the person occupies.

(4) "Low-income" means persons or households with income at or below ((~~two hundred~~)) 200 percent of the federal poverty level ((~~as~~)), 80 percent of the area median income for the county in which the home receiving rehabilitation is located, or 60 percent of the state median income, whichever is greater, and adjusted for ((~~family~~)) household size ((~~and determined annually by the federal department of health and human services~~)).

(5) "Rehabilitation agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for rehabilitating residences under this chapter and has been approved by the department.

(6) "Rural areas" means areas of Washington state defined as nonentitlement areas by the United States department of housing and urban development.

Sec. 2. RCW 43.330.482 and 2017 c 285 s 2 are each amended to read as follows:

(1) ((~~Subject to availability of amounts appropriated for this specific purpose, the low-income home rehabilitation revolving loan program is created within the department.~~

~~(2) The program must include the following elements:~~

~~(a) Eligible homeowners must be low-income and live in rural areas.~~

~~(b) Homeowners who are senior citizens, persons with disabilities, families with children five years old and younger, and veterans must receive priority for loans.~~

~~(c) The cost of the home rehabilitation must be the lesser of eighty percent of the assessed value of the property post rehabilitation or forty thousand dollars.~~

~~(d) The maximum amount that may be loaned under this program may not exceed the cost of the home rehabilitation as provided in (c) of this subsection, and must not result in total loans borrowed against the property equaling more than eighty percent of the assessed value.~~

~~(e) The interest rate of the loan must be equal to the previous calendar year's annual average consumer price index compiled by the bureau of labor statistics, United States department of labor.~~

~~(f)~~)) On July 1, 2023, the low-income home rehabilitation revolving loan program is terminated except for purposes of addressing outstanding loans as provided in this section, and the department and partnering rehabilitation agencies must immediately cease issuing new loans under the program.

(2) The department must allow participating homeowners to defer repayment of the loan principal and interest and any fees related to the administration or issuance of the loan. Any amounts deferred pursuant to this section become a lien in favor of the state. The lien is subordinate to liens for general taxes, amounts deferred under chapter 84.37 or 84.38 RCW, or special assessments as defined in RCW 84.38.020. The lien is also subordinate to the first deed of trust or the first mortgage on the real property but has priority over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded. The department must take such necessary action to file and perfect the state's lien. ((~~All amounts due under the loan become due and payable upon the sale of the home or upon change in ownership of the home.~~))

(3) The balance of any loan previously issued under this section that is outstanding as of the effective date of this section is forgiven. The forgiveness applies to all remaining amounts owed, including loan principal, interest, and fees. Loan forgiveness is not retroactive, and does not apply to any loans issued under this section paid in full before the effective date of this section.

(4) All moneys from repayments must be deposited into the low-income home rehabilitation ((~~revolving loan program~~)) account created in RCW 43.330.488.

(((~~(4)~~))) (5) The department must adopt rules for implementation of this program.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to availability of amounts appropriated for this specific purpose, the low-income home rehabilitation grant program is created within the department.

(2) The program must include the following elements:

(a) Eligible homeowners must be low-income and live in rural areas.

(b) Homeowners who are senior citizens, persons with disabilities, families with children five years old and younger, and veterans must receive priority for grants.

(c) The cost of the home rehabilitation must be the lesser of:

(i) 80 percent of the assessed or appraised value of the property post rehabilitation, whichever is greater; or

(ii) $50,000.

(d) The maximum amount that may be granted under this program may not exceed the cost of the home rehabilitation as provided in (c) of this subsection.

(3) The department must adopt rules for implementation of this grant program.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must contract with rehabilitation agencies to provide home rehabilitation to participating homeowners. Preference must be given to local agencies delivering programs and services with similar eligibility criteria.

(2) Any rehabilitation agency receiving funding under this section must report to the department at least quarterly, or in alignment with federal reporting, whichever is the greater frequency, the project costs and the number of homes repaired or rehabilitated. The department must review the accuracy of these reports.

Sec. 5. RCW 43.330.488 and 2017 c 285 s 4 are each amended to read as follows:

The low-income home rehabilitation ((~~revolving loan program~~)) account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments of loans, private contributions, and all other sources must be deposited into the account. Expenditures from the account may be used only for the purposes of the low-income home rehabilitation revolving loan program created in RCW 43.330.482 and the low-income home rehabilitation grant program created in section 3 of this act. After July 1, 2023, the director may expend moneys in the account only for wind-down costs of the loan program in RCW 43.330.482 until the loan program terminates pursuant to this act, and for the grant program created in section 3 of this act. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 6. RCW 43.79A.040 and 2022 c 244 s 3, 2022 c 206 s 8, 2022 c 183 s 16, and 2022 c 162 s 6 are each reenacted and amended to read as follows:

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

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

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

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

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county ((~~enhanced~~)) 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation ((~~revolving loan program~~)) account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the

Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the Washington student loan account, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

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

NEW SECTION. **Sec. 7.** The following acts or parts of acts are each repealed:

(1) RCW 43.330.482 (Low-income home rehabilitation revolving loan program) and 2023 c . . . s 2 (section 2 of this act) & 2017 c 285 s 2; and

(2) RCW 43.330.486 (Low-income home rehabilitation revolving loan program—Contracts with rehabilitation agencies—Reports) and 2017 c 285 s 3.

NEW SECTION. **Sec. 8.** (1) Section 7 of this act takes effect on July 1st of the year following the closure of the last loan issued under the low-income home rehabilitation revolving loan program.

(2) The department of commerce must provide written notice of the effective date of section 7 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023.

Passed by the House April 17, 2023.

Passed by the Senate April 12, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 381

[Engrossed Substitute House Bill 1335]

DOXING—UNAUTHORIZED PUBLICATION OF PERSONAL IDENTIFYING INFORMATION

AN ACT Relating to the unauthorized publication of personal identifying information; adding a new section to chapter 4.24 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW to read as follows:

(1) No person may publish an individual's personal identifying information when:

(a) The publication is made without the express consent of the individual whose information is published;

(b) The publication is made with: (i) Intent or knowledge that the personal identifying information will be used to harm the individual whose information is published; or (ii) reckless disregard for the risk the personal identifying information will be used to harm the individual whose information is published; and

(c) The publication causes the individual whose information is published to suffer: (i) Physical injury; (ii) significant economic injury; (iii) mental anguish; (iv) fear of serious bodily injury or death for themself or a close relation to themself; or (v) a substantial life disruption.

(2) A person does not violate this section by:

(a) Providing personal identifying information with the reporting of criminal activity, which the person making the report reasonably believes occurred, to an employee of a law enforcement agency, intelligence agency, or other government agency in the United States; or in connection with any existing investigative, protective, or intelligence activity of any law enforcement agency, intelligence agency, or other government agency in the United States. This subsection (2)(a) only applies if the person providing the personal identifying information reasonably believes it to be accurate and provides the information in good faith and not for a malicious, fraudulent, or unlawful purpose;

(b) Providing personal identifying information in connection with an exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the United States Constitution or Washington state Constitution;

(c) Providing personal identifying information to, or in the course of acting as or on behalf of, "news media" as defined in RCW 5.68.010(5);

(d) Providing personal identifying information to a requestor in response to a request under the public records act, chapter 42.56 RCW;

(e) Providing personal identifying information when required to do so by any federal, state, or local law or regulation, or court rule or court order. This subsection (2)(e) only applies if the person providing the personal identifying

information reasonably believes it to be accurate and provides the information in good faith and not for a malicious, fraudulent, or unlawful purpose;

(f) Providing personal identifying information in connection with a lawful requirement for a court filing or recording, including but not limited to recording judgments or filing claims of liens;

(g) Providing personal identifying information as permitted under the federal Gramm-Leach-Bliley act and consumer financial protection bureau Regulation P, 12 C.F.R. Part 1016, consistent with privacy policy disclosures provided pursuant to such regulation;

(h) Providing personal identifying information in compliance with the fair credit reporting act (84 Stat. 1127; 15 U.S.C. Sec. 1681 et seq.) or fair debt collection practices act (91 Stat. 874; 15 U.S.C. Sec. 1692 et seq.);

(i) Providing personal identifying information in a consumer alert or public notice arising from a regulatory, civil, or criminal investigation, complaint, or enforcement action. This subsection (2)(i) only applies to publications made by government agencies;

(j) Providing personal identifying information within or to a government agency, corporation, company, partnership, labor union, or another legal entity, or to any employees or agents thereof, but only if the following requirements are satisfied:

(i) The personal identifying information is provided for a legitimate and lawful purpose, including without limitation the reporting of criminal or fraudulent activity, facilitating a lawful commercial transaction, or furthering an existing business relationship;

(ii) The personal identifying information is provided through a private channel of communication, and is not provided to the public;

(iii) The person providing the personal identifying information:

(A) Reasonably believes it to be accurate; or

(B) Has reasonable suspicion to believe it is being used fraudulently; and

(iv) The person providing the personal identifying information provides it in good faith, and not for a malicious or fraudulent purpose; or

(k) Providing personal identifying information on behalf of a state agency, the health benefit exchange, a tribal nation, a contracted service provider of a state agency or the health benefit exchange, or the lead organization or a data vendor of the all-payer health care claims database under chapter 43.371 RCW, if the information was provided in a manner legally permitted under federal or state law or regulation.

(3) It is not a defense to a violation of this section that the personal identifying information at issue was voluntarily given to the publisher, has been previously publicly disclosed, or is readily discoverable through research or investigation.

(4) Nothing in this section shall be construed in any manner to:

(a) Conflict with 47 U.S.C. Sec. 230;

(b) Conflict with 42 U.S.C. Sec. 1983; or

(c) Prohibit any activity protected under the Constitution of the United States or the Washington state Constitution.

(5)(a) An individual whose personal identifying information is published in violation of this section may bring a civil action against: (i) The person or persons who published the personal identifying information; and (ii) any person

who knowingly benefits, financially or by receiving anything of value, from participation in a venture that the person knew or should have known has engaged in an act in violation of this section.

(b) A prevailing claimant who brings a civil action pursuant to this section is entitled to recover any or all of the following remedies upon request: (i) Compensatory damages; (ii) punitive damages; (iii) statutory damages of $5,000 per violation; (iv) costs and reasonable attorneys' fees; (v) injunctive relief; and (vi) any other relief deemed appropriate by the court.

(c) When an action is brought under this section, a court may, on its own motion or upon the motion of any party, issue a temporary restraining order, or a temporary or permanent injunction, to restrain and prevent the disclosure or continued disclosure of a party's personal identifying information.

(d) A civil action may be brought in any county in which an element of any violation of this section occurred, or in which an individual resides who is the subject of the personal identifying information published in violation of this section.

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

(a) "Close relation" means a current or former spouse or domestic partner, parent, child, sibling, stepchild, stepparent, grandparent, any person who regularly resides in the household or who within the prior six months regularly resided in the household, or any person with a significant personal or professional relationship.

(b) "Course of conduct" means a pattern of conduct composed of two or more acts, evidencing a continuity of purpose.

(c) "Doxing" means unauthorized publication of personal identifying information with intent or knowledge that the information will be used to harm the individual whose information is published, or with reckless disregard for the risk the information will be used to harm the individual whose information is published.

(d) "Electronic communication" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Electronic communication" includes, but is not limited to, email, internet-based communications, pager service, and electronic text messaging.

(e) "Harassment" has the same meaning as in RCW 9A.46.020, 9A.90.120, and 9.61.230.

(f) "Harm" means bodily injury, death, harassment, or stalking.

(g) "Mental anguish" means emotional distress or emotional suffering as evidenced by anxiety, fear, torment, or apprehension that may or may not result in a physical manifestation of mental anguish or a mental health diagnosis. The mental anguish must be protracted and not merely trivial or transitory.

(h) "Personal identifying information" means any information that can be used to distinguish or trace an individual's identity, including without limitation name, prior legal name, alias, mother's maiden name, or date or place of birth, in combination with any other information that is linked or linkable to an individual such as:

(i) Social security number, home address, mailing address, phone number, email address, social media accounts, or biometric data;

(ii) Medical, financial, education, consumer, or employment information, data, or records;

(iii) Any other sensitive private information that is linked or linkable to a specific identifiable individual, such as gender identity, sexual orientation, or any sexually intimate visual depiction; or

(iv) Any information, including without limitation usernames and passwords, that enables access to a person's email accounts, social media accounts, electronic forum accounts, chat or instant message accounts, cloud storage accounts, banking or financial accounts, computer networks, computers or phones, teleconferencing services, video-teleconferencing services, or other digital meeting rooms.

(i) "Publish" means to circulate, deliver, distribute, disseminate, post, transmit, or otherwise make available to another person, through any oral, written, visual, or electronic communication.

(j) "Regularly resides" means residing in the household with some permanency or regular frequency in the resident's living arrangement.

(k) "Stalking" has the same meaning as in RCW 9A.46.110.

(l) "Substantial life disruption" means that a person significantly modifies their actions, routines, employment, residence, appearance, name, or contact information to avoid or protect against an actor who has obtained or is using the person's personal identifying information, or because of the course of conduct of an actor who has obtained or is using the person's personal identifying information. Examples include, without limitation, changing a phone number, changing an electronic mail address, deleting personal electronic accounts, significantly decreasing use of the internet, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule, or losing time from work or a job.

(7) The legislature does not intend this section to allow, and this section shall not allow, actions to be brought for constitutionally protected activity.

NEW SECTION. **Sec. 2.** This act shall be liberally construed and applied to promote its underlying purpose to deter doxing, protect persons from doxing, and provide adequate remedies to victims of doxing.

NEW SECTION. **Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House April 17, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 382

[Engrossed Second Substitute House Bill 1357]

HEALTH PLANS—PRIOR AUTHORIZATION

AN ACT Relating to modernizing the prior authorization process; amending RCW 48.43.0161; adding a new section to chapter 48.43 RCW; adding a new section to chapter 41.05 RCW; adding a new section to chapter 74.09 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Each carrier offering a health plan issued or renewed on or after January 1, 2024, shall comply with the following standards related to prior authorization for health care services and prescription drugs:

(a) The carrier shall meet the following time frames for prior authorization determinations and notifications to a participating provider or facility that submits the prior authorization request through an electronic prior authorization process, as designated by each carrier:

(i) For electronic standard prior authorization requests, the carrier shall make a decision and notify the provider or facility of the results of the decision within three calendar days, excluding holidays, of submission of an electronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the carrier to make a decision, the carrier shall request any additional information from the provider or facility within one calendar day of submission of the electronic prior authorization request.

(ii) For electronic expedited prior authorization requests, the carrier shall make a decision and notify the provider or facility of the results of the decision within one calendar day of submission of an electronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the carrier to make a decision, the carrier shall request any additional information from the provider or facility within one calendar day of submission of the electronic prior authorization request.

(b) The carrier shall meet the following time frames for prior authorization determinations and notifications to a participating provider or facility that submits the prior authorization request through a process other than an electronic prior authorization process:

(i) For nonelectronic standard prior authorization requests, the carrier shall make a decision and notify the provider or facility of the results of the decision within five calendar days of submission of a nonelectronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the carrier to make a decision, the carrier shall request any additional information from the provider or facility within five calendar days of submission of the nonelectronic prior authorization request.

(ii) For nonelectronic expedited prior authorization requests, the carrier shall make a decision and notify the provider or facility of the results of the decision within two calendar days of submission of a nonelectronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the carrier to make a decision, the carrier shall request any additional information from the provider or facility within one calendar day of submission of the nonelectronic prior authorization request.

(c) In any instance in which a carrier has determined that a provider or facility has not provided sufficient information for making a determination under (a) and (b) of this subsection, a carrier may establish a specific reasonable time

frame for submission of the additional information. This time frame must be communicated to the provider and enrollee with a carrier's request for additional information.

(d) The carrier's prior authorization requirements must be described in detail and written in easily understandable language. The carrier shall make its most current prior authorization requirements and restrictions, including the written clinical review criteria, available to providers and facilities in an electronic format upon request. The prior authorization requirements must be based on peer-reviewed clinical review criteria. The clinical review criteria must be evidence-based criteria and must accommodate new and emerging information related to the appropriateness of clinical criteria with respect to black and indigenous people, other people of color, gender, and underserved populations. The clinical review criteria must be evaluated and updated, if necessary, at least annually.

(2)(a) Each carrier shall build and maintain a prior authorization application programming interface that automates the process for in-network providers to determine whether a prior authorization is required for health care services, identify prior authorization information and documentation requirements, and facilitate the exchange of prior authorization requests and determinations from its electronic health records or practice management system. The application programming interface must support the exchange of prior authorization requests and determinations for health care services beginning January 1, 2025, and must:

(i) Use health level 7 fast health care interoperability resources in accordance with standards and provisions defined in 45 C.F.R. Sec. 170.215 and 45 C.F.R. Sec. 156.22(3)(b);

(ii) Automate the process to determine whether a prior authorization is required for durable medical equipment or a health care service;

(iii) Allow providers to query the carrier's prior authorization documentation requirements;

(iv) Support an automated approach using nonproprietary open workflows to compile and exchange the necessary data elements to populate the prior authorization requirements that are compliant with the federal health insurance portability and accountability act of 1996 or have an exception from the federal centers for medicare and medicaid services; and

(v) Indicate that a prior authorization denial or authorization of a service less intensive than that included in the original request is an adverse benefit determination and is subject to the carrier's grievance and appeal process under RCW 48.43.535.

(b) Each carrier shall establish and maintain an interoperable electronic process or application programming interface that automates the process for in-network providers to determine whether a prior authorization is required for a covered prescription drug. The application programming interface must support the exchange of prior authorization requests and determinations for prescription drugs, including information on covered alternative prescription drugs, beginning January 1, 2027, and must:

(i) Allow providers to identify prior authorization information and documentation requirements;

(ii) Facilitate the exchange of prior authorization requests and determinations from its electronic health records or practice management system, and may include the necessary data elements to populate the prior authorization requirements that are compliant with the federal health insurance portability and accountability act of 1996 or have an exception from the federal centers for medicare and medicaid services; and

(iii) Indicate that a prior authorization denial or authorization of a drug other than the one included in the original prior authorization request is an adverse benefit determination and is subject to the carrier's grievance and appeal process under RCW 48.43.535.

(c) If federal rules related to standards for using an application programming interface to communicate prior authorization status to providers are not finalized by the federal centers for medicare and medicaid services by September 13, 2023, the requirements of (a) of this subsection may not be enforced until January 1, 2026.

(d)(i) If a carrier determines that it will not be able to satisfy the requirements of (a) of this subsection by January 1, 2025, the carrier shall submit a narrative justification to the commissioner on or before September 1, 2024, describing:

(A) The reasons that the carrier cannot reasonably satisfy the requirements;

(B) The impact of noncompliance upon providers and enrollees;

(C) The current or proposed means of providing health information to the providers; and

(D) A timeline and implementation plan to achieve compliance with the requirements.

(ii) The commissioner may grant a one-year delay in enforcement of the requirements of (a) of this subsection (2) if the commissioner determines that the carrier has made a good faith effort to comply with the requirements.

(iii) This subsection (2)(d) shall not apply if the delay in enforcement in (c) of this subsection takes effect because the federal centers for medicare and medicaid services did not finalize the applicable regulations by September 13, 2023.

(e) By September 13, 2023, and at least every six months thereafter until September 13, 2026, the commissioner shall provide an update to the health care policy committees of the legislature on the development of rules and implementation guidance from the federal centers for medicare and medicaid services regarding the standards for development of application programming interfaces and interoperable electronic processes related to prior authorization functions. The updates should include recommendations, as appropriate, on whether the status of the federal rule development aligns with the provisions of this act. The commissioner also shall report on any actions by the federal centers for medicare and medicaid services to exercise enforcement discretion related to the implementation and maintenance of an application programming interface for prior authorization functions. The commissioner shall consult with the health care authority, carriers, providers, and consumers on the development of these updates and any recommendations.

(3) Nothing in this section applies to prior authorization determinations made pursuant to RCW 48.43.761.

(4) For the purposes of this section:

(a) "Expedited prior authorization request" means a request by a provider or facility for approval of a health care service or prescription drug where:

(i) The passage of time:

(A) Could seriously jeopardize the life or health of the enrollee;

(B) Could seriously jeopardize the enrollee's ability to regain maximum function; or

(C) In the opinion of a provider or facility with knowledge of the enrollee's medical condition, would subject the enrollee to severe pain that cannot be adequately managed without the health care service or prescription drug that is the subject of the request; or

(ii) The enrollee is undergoing a current course of treatment using a nonformulary drug.

(b) "Standard prior authorization request" means a request by a provider or facility for approval of a health care service or prescription drug where the request is made in advance of the enrollee obtaining a health care service or prescription drug that is not required to be expedited.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) A health plan offered to public employees, retirees, and their covered dependents under this chapter issued or renewed on or after January 1, 2024, shall comply with the following standards related to prior authorization for health care services and prescription drugs:

(a) The health plan shall meet the following time frames for prior authorization determinations and notifications to a participating provider or facility that submits the prior authorization request through an electronic prior authorization process:

(i) For electronic standard prior authorization requests, the health plan shall make a decision and notify the provider or facility of the results of the decision within three calendar days, excluding holidays, of submission of an electronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the health plan to make a decision, the health plan shall request any additional information from the provider or facility within one calendar day of submission of the electronic prior authorization request.

(ii) For electronic expedited prior authorization requests, the health plan shall make a decision and notify the provider or facility of the results of the decision within one calendar day of submission of an electronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the health plan to make a decision, the health plan shall request any additional information from the provider or facility within one calendar day of submission of the electronic prior authorization request.

(b) The health plan shall meet the following time frames for prior authorization determinations and notifications to a participating provider or facility that submits the prior authorization request through a process other than an electronic prior authorization process described in subsection (2) of this section:

(i) For nonelectronic standard prior authorization requests, the health plan shall make a decision and notify the provider or facility of the results of the

decision within five calendar days of submission of a nonelectronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the health plan to make a decision, the health plan shall request any additional information from the provider or facility within five calendar days of submission of the nonelectronic prior authorization request.

(ii) For nonelectronic expedited prior authorization requests, the health plan shall make a decision and notify the provider or facility of the results of the decision within two calendar days of submission of a nonelectronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the health plan to make a decision, the health plan shall request any additional information from the provider or facility within one calendar day of submission of the nonelectronic prior authorization request.

(c) In any instance in which the health plan has determined that a provider or facility has not provided sufficient information for making a determination under (a) and (b) of this subsection, the health plan may establish a specific reasonable time frame for submission of the additional information. This time frame must be communicated to the provider and enrollee with the health plan's request for additional information.

(d) The prior authorization requirements of the health plan must be described in detail and written in easily understandable language. The health plan shall make its most current prior authorization requirements and restrictions, including the written clinical review criteria, available to providers and facilities in an electronic format upon request. The prior authorization requirements must be based on peer-reviewed clinical review criteria. The clinical review criteria must be evidence-based criteria and must accommodate new and emerging information related to the appropriateness of clinical criteria with respect to black and indigenous people, other people of color, gender, and underserved populations. The clinical review criteria must be evaluated and updated, if necessary, at least annually.

(2)(a) Each health plan offered to public employees, retirees, and their covered dependents under this chapter shall build and maintain a prior authorization application programming interface that automates the process for in-network providers to determine whether a prior authorization is required for health care services, identify prior authorization information and documentation requirements, and facilitate the exchange of prior authorization requests and determinations from its electronic health records or practice management system. The application programming interface must support the exchange of prior authorization requests and determinations for health care services beginning January 1, 2025, and must:

(i) Use health level 7 fast health care interoperability resources in accordance with standards and provisions defined in 45 C.F.R. Sec. 170.215 and 45 C.F.R. Sec. 156.22(3)(b);

(ii) Automate the process to determine whether a prior authorization is required for durable medical equipment or a health care service;

(iii) Allow providers to query the health plan's prior authorization documentation requirements;

(iv) Support an automated approach using nonproprietary open workflows to compile and exchange the necessary data elements to populate the prior authorization requirements that are compliant with the federal health insurance portability and accountability act of 1996 or have an exception from the federal centers for medicare and medicaid services; and

(v) Indicate that a prior authorization denial or authorization of a service less intensive than that included in the original request is an adverse benefit determination and is subject to the health plan's grievance and appeal process under RCW 48.43.535.

(b) Each health plan offered to public employees, retirees, and their covered dependents under this chapter shall establish and maintain an interoperable electronic process or application programming interface that automates the process for in-network providers to determine whether a prior authorization is required for a covered prescription drug. The application programming interface must support the exchange of prior authorization requests and determinations for prescription drugs, including information on covered alternative prescription drugs, beginning January 1, 2027, and must:

(i) Allow providers to identify prior authorization information and documentation requirements;

(ii) Facilitate the exchange of prior authorization requests and determinations from its electronic health records or practice management system, and may include the necessary data elements to populate the prior authorization requirements that are compliant with the federal health insurance portability and accountability act of 1996 or have an exception from the federal centers for medicare and medicaid services; and

(iii) Indicate that a prior authorization denial or authorization of a drug other than the one included in the original prior authorization request is an adverse benefit determination and is subject to the health plan's grievance and appeal process under RCW 48.43.535.

(c) If federal rules related to standards for using an application programming interface to communicate prior authorization status to providers are not finalized by the federal centers for medicare and medicaid services by September 13, 2023, the requirements of (a) of this subsection may not be enforced until January 1, 2026.

(d)(i) If the health plan determines that it will not be able to satisfy the requirements of (a) of this subsection by January 1, 2025, the health plan shall submit a narrative justification to the authority on or before September 1, 2024, describing:

(A) The reasons that the health plan cannot reasonably satisfy the requirements;

(B) The impact of noncompliance upon providers and enrollees;

(C) The current or proposed means of providing health information to the providers; and

(D) A timeline and implementation plan to achieve compliance with the requirements.

(ii) The authority may grant a one-year delay in enforcement of the requirements of (a) of this subsection (2) if the authority determines that the health plan has made a good faith effort to comply with the requirements.

(iii) This subsection (2)(d) shall not apply if the delay in enforcement in (c) of this subsection takes effect because the federal centers for medicare and medicaid services did not finalize the applicable regulations by September 13, 2023.

(3) Nothing in this section applies to prior authorization determinations made pursuant to RCW 41.05.526.

(4) For the purposes of this section:

(a) "Expedited prior authorization request" means a request by a provider or facility for approval of a health care service or prescription drug where:

(i) The passage of time:

(A) Could seriously jeopardize the life or health of the enrollee;

(B) Could seriously jeopardize the enrollee's ability to regain maximum function; or

(C) In the opinion of a provider or facility with knowledge of the enrollee's medical condition, would subject the enrollee to severe pain that cannot be adequately managed without the health care service or prescription drug that is the subject of the request; or

(ii) The enrollee is undergoing a current course of treatment using a nonformulary drug.

(b) "Standard prior authorization request" means a request by a provider or facility for approval of a health care service or prescription drug where the request is made in advance of the enrollee obtaining a health care service that is not required to be expedited.

(5) This section shall not apply to coverage provided under the medicare part C or part D programs set forth in Title XVIII of the social security act of 1965, as amended.

NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09 RCW to read as follows:

(1) Beginning January 1, 2024, the authority shall require each managed care organization to comply with the following standards related to prior authorization for health care services and prescription drugs:

(a) The managed care organization shall meet the following time frames for prior authorization determinations and notifications to a participating provider or facility that submits the prior authorization request through an electronic prior authorization process, as designated by each managed care organization:

(i) For electronic standard prior authorization requests, the managed care organization shall make a decision and notify the provider or facility of the results of the decision within three calendar days, excluding holidays, of submission of an electronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the managed care organization to make a decision, the managed care organization shall request any additional information from the provider or facility within one calendar day of submission of the electronic prior authorization request.

(ii) For electronic expedited prior authorization requests, the managed care organization shall make a decision and notify the provider or facility of the results of the decision within one calendar day of submission of an electronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been

provided to the managed care organization to make a decision, the managed care organization shall request any additional information from the provider or facility within one calendar day of submission of the electronic prior authorization request.

(b) The managed care organization shall meet the following time frames for prior authorization determinations and notifications to a participating provider or facility that submits the prior authorization request through a process other than an electronic prior authorization process described in subsection (2) of this section:

(i) For nonelectronic standard prior authorization requests, the managed care organization shall make a decision and notify the provider or facility of the results of the decision within five calendar days of submission of a nonelectronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the managed care organization to make a decision, the managed care organization shall request any additional information from the provider or facility within five calendar days of submission of the nonelectronic prior authorization request.

(ii) For nonelectronic expedited prior authorization requests, the managed care organization shall make a decision and notify the provider or facility of the results of the decision within two calendar days of submission of a nonelectronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the managed care organization to make a decision, the managed care organization shall request any additional information from the provider or facility within one calendar day of submission of the nonelectronic prior authorization request.

(c) In any instance in which a managed care organization has determined that a provider or facility has not provided sufficient information for making a determination under (a) and (b) of this subsection, a managed care organization may establish a specific reasonable time frame for submission of the additional information. This time frame must be communicated to the provider and enrollee with a managed care organization's request for additional information.

(d) The prior authorization requirements of the managed care organization must be described in detail and written in easily understandable language. The managed care organization shall make its most current prior authorization requirements and restrictions, including the written clinical review criteria, available to providers and facilities in an electronic format upon request. The prior authorization requirements must be based on peer-reviewed clinical review criteria. The clinical review criteria must be evidence-based criteria and must accommodate new and emerging information related to the appropriateness of clinical criteria with respect to black and indigenous people, other people of color, gender, and underserved populations. The clinical review criteria must be evaluated and updated, if necessary, at least annually.

(2)(a) Each managed care organization shall build and maintain a prior authorization application programming interface that automates the process for in-network providers to determine whether a prior authorization is required for health care services, identify prior authorization information and documentation requirements, and facilitate the exchange of prior authorization requests and

determinations from its electronic health records or practice management system. The application programming interface must support the exchange of prior authorization requests and determinations for health care services beginning January 1, 2025, and must:

(i) Use health level 7 fast health care interoperability resources in accordance with standards and provisions defined in 45 C.F.R. Sec. 170.215 and 45 C.F.R. Sec. 156.22(3)(b);

(ii) Automate the process to determine whether a prior authorization is required for durable medical equipment or a health care service;

(iii) Allow providers to query the managed care organization's prior authorization documentation requirements;

(iv) Support an automated approach using nonproprietary open workflows to compile and exchange the necessary data elements to populate the prior authorization requirements that are compliant with the federal health insurance portability and accountability act of 1996 or have an exception from the federal centers for medicare and medicaid services; and

(v) Indicate that a prior authorization denial or authorization of a service less intensive than that included in the original request is an adverse benefit determination and is subject to the managed care organization's grievance and appeal process under RCW 48.43.535.

(b) Each managed care organization shall establish and maintain an interoperable electronic process or application programming interface that automates the process for in-network providers to determine whether a prior authorization is required for a covered prescription drug. The application programming interface must support the exchange of prior authorization requests and determinations for prescription drugs, including information on covered alternative prescription drugs, beginning January 1, 2027, and must:

(i) Allow providers to identify prior authorization information and documentation requirements;

(ii) Facilitate the exchange of prior authorization requests and determinations from its electronic health records or practice management system, and may include the necessary data elements to populate the prior authorization requirements that are compliant with the federal health insurance portability and accountability act of 1996 or have an exception from the federal centers for medicare and medicaid services; and

(iii) Indicate that a prior authorization denial or authorization of a drug other than the one included in the original prior authorization request is an adverse benefit determination and is subject to the managed care organization's grievance and appeal process under RCW 48.43.535.

(c) If federal rules related to standards for using an application programming interface to communicate prior authorization status to providers are not finalized by September 13, 2023, the requirements of (a) of this subsection may not be enforced until January 1, 2026.

(d)(i) If a managed care organization determines that it will not be able to satisfy the requirements of (a) of this subsection by January 1, 2025, the managed care organization shall submit a narrative justification to the authority on or before September 1, 2024, describing:

(A) The reasons that the managed care organization cannot reasonably satisfy the requirements;

(B) The impact of noncompliance upon providers and enrollees;

(C) The current or proposed means of providing health information to the providers; and

(D) A timeline and implementation plan to achieve compliance with the requirements.

(ii) The authority may grant a one-year delay in enforcement of the requirements of (a) of this subsection (2) if the authority determines that the managed care organization has made a good faith effort to comply with the requirements.

(iii) This subsection (2)(d) shall not apply if the delay in enforcement in (c) of this subsection takes effect because the federal centers for medicare and medicaid services did not finalize the applicable regulations by September 13, 2023.

(3) Nothing in this section applies to prior authorization determinations made pursuant to RCW 71.24.618 or 74.09.490.

(4) For the purposes of this section:

(a) "Expedited prior authorization request" means a request by a provider or facility for approval of a health care service or prescription drug where:

(i) The passage of time:

(A) Could seriously jeopardize the life or health of the enrollee;

(B) Could seriously jeopardize the enrollee's ability to regain maximum function; or

(C) In the opinion of a provider or facility with knowledge of the enrollee's medical condition, would subject the enrollee to severe pain that cannot be adequately managed without the health care service or prescription drug that is the subject of the request; or

(ii) The enrollee is undergoing a current course of treatment using a nonformulary drug.

(b) "Standard prior authorization request" means a request by a provider or facility for approval of a health care service or prescription drug where the request is made in advance of the enrollee obtaining a health care service or prescription drug that is not required to be expedited.

Sec. 4. RCW 48.43.0161 and 2020 c 316 s 1 are each amended to read as follows:

(1) ((~~Except as provided in subsection (2) of this section, by~~)) By October 1, 2020, and annually thereafter, for individual and group health plans issued by a carrier that has written at least one percent of the total accident and health insurance premiums written by all companies authorized to offer accident and health insurance in Washington in the most recently available year, the carrier shall report to the commissioner the following aggregated and deidentified data related to the carrier's prior authorization practices and experience for the prior plan year:

(a) Lists of the ((~~ten~~)) 10 inpatient medical or surgical codes:

(i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;

(ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code; and

(iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;

(b) Lists of the ((~~ten~~)) 10 outpatient medical or surgical codes:

(i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;

(ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code; and

(iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;

(c) Lists of the ((~~ten~~)) 10 inpatient mental health and substance use disorder service codes:

(i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;

(ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code; ((~~[and]~~)) and

(iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;

(d) Lists of the ((~~ten~~)) 10 outpatient mental health and substance use disorder service codes:

(i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;

(ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code; ((~~[and]~~)) and

(iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved;

(e) Lists of the ((~~ten~~)) 10 durable medical equipment codes:

(i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;

(ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code; ((~~[and]~~)) and

(iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;

(f) Lists of the ((~~ten~~)) 10 diabetes supplies and equipment codes:

(i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;

(ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code; ((~~[and]~~)) and

(iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;

(g) Lists of the 10 prescription drugs:

(i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each prescription drug and the percent of approved requests for each prescription drug;

(ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each prescription drug and the percent of approved requests for each prescription drug; and

(iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each prescription drug and the percent of requests that were initially denied and then subsequently approved for each prescription drug; and

(h) The average determination response time in hours for prior authorization requests to the carrier with respect to each code reported under (a) through (f) of this subsection for each of the following categories of prior authorization:

(i) Expedited decisions;

(ii) Standard decisions; and

(iii) Extenuating circumstances decisions.

(2) ((~~For the October 1, 2020, reporting deadline, a carrier is not required to report data pursuant to subsection (1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), (e)(iii), or (f)(iii) of this section until April 1, 2021, if the commissioner determines that doing so constitutes a hardship.~~

~~(3)~~)) By January 1, 2021, and annually thereafter, the commissioner shall aggregate and deidentify the data collected under subsection (1) of this section into a standard report and may not identify the name of the carrier that submitted the data. ((~~The initial report due on January 1, 2021, may omit data for which a hardship determination is made by the commissioner under subsection (2) of this section. Such data must be included in the report due on January 1, 2022.~~)) The commissioner must make the report available to interested parties.

(((~~(4)~~))) (3) The commissioner may request additional information from carriers reporting data under this section.

(((~~(5)~~))) (4) The commissioner may adopt rules to implement this section. In adopting rules, the commissioner must consult stakeholders including carriers, health care practitioners, health care facilities, and patients.

(((~~(6)~~))) (5) For the purpose of this section, "prior authorization" means a mandatory process that a carrier or its designated or contracted representative requires a provider or facility to follow before a service is delivered, to determine if a service is a benefit and meets the requirements for medical necessity, clinical appropriateness, level of care, or effectiveness in relation to the applicable plan, including any term used by a carrier or its designated or contracted representative to describe this process.

NEW SECTION. **Sec. 5.** Section 4 of this act takes effect January 1, 2024.

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, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 383

[Substitute House Bill 1460]

DEPARTMENT OF NATURAL RESOURCES—TRUST LANDS—EXCHANGES

AN ACT Relating to the department of natural resources trust land management; amending RCW 79.17.020, 79.17.210, 79.22.060, 43.30.385, 79.19.020, 79.19.030, 79.11.340, 79.22.140, and 79.19.050; reenacting and amending RCW 79.64.110; adding a new section to chapter 79.19 RCW; adding new sections to chapter 79.17 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that some state lands and state forestlands have a low potential for natural resource management or low income-generating potential or are inefficient for the department of natural resources to manage due to geographic location or other factors.

(2) The legislature further finds that some of these lands have high ecological values and public benefits and should be maintained in public ownership as a park, open space, nature preserve, or similar designation to benefit the people of Washington.

(3) The legislature further finds that the department of natural resources needs an effective program to transfer these lands out of trust status to the natural areas program, other public agencies, or federally recognized Indian tribes, and simultaneously acquire legislative funding to acquire productive replacement lands to improve the revenue-generating performance of the state lands and state forestlands it manages.

(4) The legislature further finds that the trust land transfer program should be established within the department of natural resources with adequate funds to cover the department's expenses for administering the program and completing trust land transfers.

(5) The legislature further finds that there exists an interest by the public and trust beneficiaries that the program be well-documented and transparent, that

each potential transfer be examined by the department of natural resources to ensure it is in the best interests of the trust beneficiaries, that an external advisory committee place proposed transfers into a prioritized order using standardized criteria, that the board of natural resources approve submission of the list to the legislature, and that parcels be transferred in order of priority.

NEW SECTION. **Sec. 2.** (1) The department is authorized to create and manage a trust land transfer program. Real property available for the trust land transfer program is economically under-performing state land and state forestland with high ecological or public benefit and deemed appropriate for state parks, fish and wildlife habitats, natural area preserves, natural resources conservation areas, community forests, recreation, or other public purposes.

(2) Underperforming state land and state forestland is land that the department determines has limited potential to generate income in the reasonably foreseeable future due to physical, legal, access, or other constraints. The department may use the real property transfer authorities under this chapter and chapter 79.22 RCW, as appropriate, to complete transfers under the trust land transfer program.

(3) The department shall use legislative appropriations for approved trust land transfers to acquire replacement real property that will provide long-term, sustainable revenue to the trust beneficiaries or is otherwise desirable to be added to the affected trust and to pay for the department's administrative expenses to complete the transfer, including the cost of department staff time, appraisals, surveys, environmental reviews, and other similar costs of the program.

(4) Transfers funded by legislative appropriation must be at fair market value, including the value of land, timber, other valuable materials, and improvements owned by the state. The legislative appropriation must be deposited in the natural resources real property replacement account created in RCW 79.17.210 and the parkland trust revolving fund established in RCW 43.30.385, as appropriate.

(5) The department shall prioritize the acquisition of working farms and forests when acquiring replacement real property for state lands transferred under this program when it can be demonstrated that the trust fiduciary obligations can be better fulfilled with these lands. The department shall endeavor to acquire replacement real property as quickly as practicable.

(6) The department shall only submit real properties for trust land transfers to the board or legislature through the process created in section 3 of this act if at least 50 percent of all previous appropriations provided after the effective date of this section for purchase of replacement lands for the trust land transfer program have been utilized to purchase replacement trust lands. The list of properties submitted to the board or legislature for possible trust land transfers through the process created in section 3 of this act may not exceed $30,000,000 in total property value for each year the list is submitted.

NEW SECTION. **Sec. 3.** The department shall administer the trust land transfer program as follows:

(1) Any citizen, state and federal agencies, counties, cities, towns, federally recognized Indian tribes, nonprofit organizations, special purpose districts, public development authorities, and other political subdivisions of the state, may

nominate a parcel of state land or state forestland for the trust land transfer program. The nomination must be made to the department on forms provided by the department and accompanied by the fee provided under RCW 79.02.250.

(2) The department shall perform an initial review to determine whether the transfer of a nominated parcel is in the best interest of the trust for which the land is held and whether a public agency, as defined in RCW 79.17.200, is willing to take ownership of the parcel and is capable of managing the land for the public benefit. The department may require prenomination review of parcels over 4,500 acres or parcels over an estimated appraised market value of $15,000,000, including the value of the land, valuable materials, and improvements, if any.

(3) If the department determines through its initial review that transfer would be in the best interest of the trust for which the land is held and a public agency is willing and able to take ownership and manage the land, the department shall consult with potentially affected federally recognized Indian tribes, consistent with the department's consultation policy to identify and address cultural resource issues.

(4) Following the department's initial review and tribal consultation, the department may submit parcels to an advisory committee that shall evaluate and prioritize nominated parcels according to criteria approved by the board, including social, ecological, economic, and other values. The advisory committee may include representatives of trust beneficiaries, public agencies, federally recognized Indian tribes, overburdened communities, and vulnerable populations as defined in chapter 70A.02 RCW, and other stakeholders as determined by the department.

(5) The department, with approval of the board, shall determine the final, prioritized list of trust land transfer parcels to submit to the legislature for funding. If a legislative appropriation includes the full fair market value for the trust land transfer parcel, and the board determines that the transfer is in the best interest of the trust for which the land is held, the department shall complete the transfer.

Sec. 4. RCW 79.17.020 and 2013 2nd sp.s. c 19 s 7035 are each amended to read as follows:

(1) The board of county commissioners of any county and/or the mayor and city council or city commission of any city or town and/or the board shall have authority to exchange, each with the other, or with the federal forest service, the federal government or any proper agency thereof and/or with any private landowner, county land of any character, land owned by municipalities of any character, and state forestland owned by the state under the jurisdiction of the department, for real property of equal value for the purpose of consolidating and blocking up the respective landholdings of any county, municipality, the federal government, or the state of Washington or for the purpose of obtaining lands having commercial recreational leasing potential. The board shall also have the authority to exchange state forestland for the purpose of obtaining land with greater natural resource or income-producing potential, when in the best interest of the state or affected trust. State forestland exchanged under this section may not be used to reduce the publicly owned forestland base.

(2)(((~~(a) During the biennium ending June 30, 2013, for the purposes of maintaining working farm and forest landscapes or acquiring natural resource~~

~~lands at risk of development, the department, with approval of the board of natural resources, may exchange any state land and any timber thereon for any land and proceeds of equal value, when it can be demonstrated that the trust fiduciary obligations can be better fulfilled after an exchange is completed. Proceeds may be in the form of cash or services in order to achieve the purposes established in this section. Any cash received as part of an exchange transaction shall be deposited in the forest development account to pay for administrative expenses incurred in carrying out an exchange transaction. These administrative expenses include road maintenance and abandonment expenses. The amount of proceeds received from the exchange partner may not exceed five percent of the total value of the exchange. The receipt of proceeds shall not change the character of the transaction from an exchange to a sale.~~

~~(b) During the biennium ending June 30, 2015, for the purposes of maintaining working farm and forest landscapes or acquiring natural resource lands at risk of development, the department, with approval of the board of natural resources, may exchange any state land and any timber thereon for any land and proceeds of equal value, when it can be demonstrated that the trust fiduciary obligations can be better fulfilled after an exchange is completed. Proceeds may be in the form of cash or services in order to achieve the purposes established in this section. Any cash received as part of an exchange transaction shall be deposited in the forest development account to pay for administrative expenses incurred in carrying out an exchange transaction. These administrative expenses include road maintenance and abandonment expenses. The amount of proceeds received from the exchange partner may not exceed five percent of the total value of the exchange. The receipt of proceeds shall not change the character of the transaction from an exchange to a sale.~~

~~(3)~~)) Prior to executing an exchange under this section, and in addition to the public notice requirements set forth in RCW 79.17.050, the department shall consult with legislative members, other state and federal agencies, local governments, federally recognized Indian tribes, local stakeholders, conservation groups, and any other interested parties to identify and address cultural resource issues, and the potential of the state lands proposed for exchange to be used for open space, park, school, or critical habitat purposes.

Sec. 5. RCW 79.17.210 and 2018 c 298 s 7005 are each amended to read as follows:

(1) The legislature finds that the department has a need to maintain the real property asset base it manages and needs an accounting mechanism to complete transactions without reducing the real property asset base.

(2) The natural resources real property replacement account is created in the state treasury. This account shall consist of funds, including the value of land, timber, other valuable materials, and improvements owned by the state, transferred or paid for the disposal or transfer of real property by the department under RCW 79.17.200 and the transfer of state lands or state forestlands into community forest trust lands under RCW 79.155.040. The funds in this account shall be used solely for the acquisition of replacement real property and may be spent only when, and as, authorized by legislative appropriation. ((~~During the 2013-2015 fiscal biennium, funds in the account may also be appropriated for the land purchase in section 3245, chapter 19, Laws of 2013 2nd sp. sess. under the provisions of section 3245, chapter 19, Laws of 2013 2nd sp. sess. and~~

~~chapter 11, Laws of 2013 2nd sp. sess. During the 2017-2019 fiscal biennium, moneys in the account may also be appropriated for developing and constructing the pipeline in section 3061, chapter 298, Laws of 2018 under the provisions of section 7004, chapter 298, Laws of 2018.~~))

Sec. 6. RCW 79.22.060 and 2012 c 166 s 7 are each amended to read as follows:

(1) With the approval of the board, the department may directly transfer or dispose of state forestlands without public auction, if the ((~~lands~~)) transfers are:

(a) ((~~Consist of ten contiguous acres or less;~~

~~(b) Have a value of twenty-five thousand dollars or less; or~~

~~(c) Are located in a county with a population of twenty-five thousand or less and are encumbered with timber harvest deferrals, associated with wildlife species listed under the federal endangered species act, greater than thirty years in length.~~

~~(2) Disposal under this section may only occur in the following circumstances:~~

~~(a) Transfers in lieu of condemnation;~~

~~(b) Transfers to resolve trespass and property ownership disputes; or~~

~~(c) In counties with a population of twenty-five thousand or less, transfers to public agencies.~~

~~(3)~~)) In lieu of condemnation or to resolve trespass and property ownership disputes and the lands consist of 10 contiguous acres or less or have a value of $25,000 or less; or

(b) To public agencies as defined in RCW 79.17.200.

(2) Real property to be transferred or disposed of under this section shall be transferred or disposed of only after appraisal and for at least fair market value, and only if the transaction is in the best interest of the state or affected trust. Valuable materials attached to lands ((~~transferred to public agencies under subsection (2)(c) of this section~~)) to be transferred under subsection (1)(b) of this section must be appraised at the fair market value without consideration of management or regulatory encumbrances associated with wildlife species listed under the federal endangered species act, if any.

(((~~(4)~~))) (3)(a) Except as provided in ((~~(b) of~~)) this subsection, the proceeds from real property transferred or disposed of under this section shall be deposited into the parkland trust revolving fund and be solely used to buy replacement ((~~land within the same county as the property transferred or disposed~~)) forestland for the benefit of the county from which the property was transferred or disposed and pay for the department's administrative expenses to complete the transfer, including the cost of department staff time, appraisals, surveys, environmental reviews, and other similar costs of the transfer. The legislative authority of the county from which the real property was transferred or disposed under subsection (1)(b) of this section may request in writing that the department distribute a percentage of the proceeds associated with valuable materials. Upon such a request, and subject to prior approval by the board, the department shall distribute the requested percentage of proceeds associated with valuable materials as provided in RCW 79.64.110.

(b) The proceeds from real property transferred or disposed of under ((~~subsections (1)(c) and (2)(c) of~~)) this section for the purpose of participating in the state forestland pool created under RCW 79.22.140 must be deposited into

the parkland trust revolving fund and used to buy replacement forestland for the benefit of that county, as provided in RCW 79.64.110 and located within any county participating in the land pool or under a county agreement as provided in RCW 79.22.140.

(c) Except as otherwise provided in this subsection, in counties with a population of ((~~twenty-five thousand~~)) 25,000 or less, the portion of the proceeds associated with valuable materials on state forestland transferred under ((~~subsections (1)(c) and (2)(c) of~~)) this section must be distributed as provided in RCW 79.64.110. If requested in writing by the legislative authority of a county participating in the state forestland pool created under RCW 79.22.140, the portion of the proceeds associated with valuable materials on state forestland transferred under ((~~subsections (1)(c) and (2)(c) of~~)) this section must be deposited in the parkland trust revolving fund and used to buy replacement forestland for the benefit of that county, as provided in RCW 79.64.110, and located within any county participating in the land pool or under a county agreement as provided in RCW 79.22.140.

Sec. 7. RCW 43.30.385 and 2014 c 32 s 2 are each amended to read as follows:

(1) The parkland trust revolving fund is to be utilized by the department for the purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission, as directed by the legislature in order to maintain the land base of the affected trusts or under RCW 79.22.060 and to receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department.

(2)(a) Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in the parkland trust revolving fund.

(b) ((~~Except as otherwise provided in this subsection, the~~)) Subject to RCW 79.22.060(3), proceeds from real property transferred or disposed under RCW 79.22.060 must be used solely to purchase replacement forestland, that must be actively managed as a working forest, ((~~within the same county as the property~~)) for the benefit of the county from which the property was transferred or disposed. ((~~If the real property was transferred under RCW 79.22.060 (1)(c) and (2)(c) from within a county participating in the state forestland pool created under RCW 79.22.140, replacement forestland may be located within any county participating in the land pool.~~))

(c) Disbursement from the parkland trust revolving fund to acquire replacement property and for operating and maintaining public use and recreation facilities shall be on the authorization of the department.

(d) The proceeds from the recreation access pass account created in RCW 79A.80.090 must be solely used for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department.

(3) In order to maintain an effective expenditure and revenue control, the parkland trust revolving fund is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(4) The department is authorized to solicit and receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department. The department may seek voluntary contributions from individuals and organizations for this purpose. Voluntary contributions will be deposited into the parkland trust revolving fund and used solely for the purpose of public use and recreation facilities operations and maintenance. Voluntary contributions are not considered a fee for use of these facilities.

Sec. 8. RCW 79.64.110 and 2021 c 334 s 995 and 2021 c 145 s 3 are each reenacted and amended to read as follows:

(1) Any moneys derived from the lease of state forestlands or from the sale of valuable materials, oils, gases, coal, minerals, or fossils from those lands, except as provided in RCW 79.64.130, or the appraised value of these resources when transferred to a public agency under RCW 79.22.060, ((~~except as provided in RCW 79.22.060(4),~~)) must be distributed as follows:

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

(i) The expense incurred by the state for administration, reforestation, and protection, not to exceed ((~~twenty-five~~)) 25 percent, which rate of percentage shall be determined by the board, must be returned to the forest development account created in RCW 79.64.100. During the 2017-2019, 2019-2021, and 2021-2023 fiscal biennia, the board may increase the ((~~twenty-five~~)) 25 percent limitation up to ((~~twenty-seven~~)) 27 percent.

(ii) Any balance remaining must be paid to the county in which the land is located or, ((~~for~~)) if the land acquired under RCW 79.22.040 was exchanged, transferred, or disposed, payment must be made to the county from which the land was exchanged, transferred, or disposed. For counties participating in a land pool created under RCW 79.22.140, to each participating county proportionate to its contribution of asset value to the land pool as determined by the board. Payments made under this subsection are to be paid, distributed, and prorated((~~, except as otherwise provided in this section,~~)) to the various funds in the same manner as general taxes are paid and distributed during the year of payment. However, ((~~in order to test county flexibility in distributing state forestland revenue,~~)) a county may in its discretion pay, distribute, and prorate payments made under this subsection of moneys derived from state forestlands acquired by exchange ((~~between July 28, 2019, and June 30, 2020~~)) or as replacement lands, for lands acquired through RCW 79.22.040, ((~~within the same county,~~)) in the same manner as general taxes are paid and distributed during the year of payment for the former state forestlands that were subject to the exchange.

(iii) Any balance remaining, paid to a county with a population of less than ((~~sixteen thousand~~)) 16,000, must first be applied to the reduction of any indebtedness existing in the current expense fund of the county during the year of payment.

(iv) With regard to moneys remaining under this subsection (1)(a), within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state treasurer shall distribute funds to the counties four times per month, with no more than ((~~ten~~)) 10 days between each payment date.

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

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

(ii) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, to the county in which the land is located or, for counties participating in a land pool created under RCW 79.22.140, to each participating county proportionate to its contribution of asset value to the land pool as determined by the board, and according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 (1) and (2) and the levy rate for any school district enrichment levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ((~~ten~~)) 10 days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

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

Sec. 9. RCW 79.19.020 and 2003 c 334 s 526 are each amended to read as follows:

The department, with the approval of the board, may purchase property at fair market value to be held in a land bank, which is hereby created within the department. Property so purchased shall be property which would be desirable for addition to the public lands of the state because of the potential for natural resource or income production of the property. ((~~The total acreage held in the land bank shall not exceed one thousand five hundred acres.~~))

Sec. 10. RCW 79.19.030 and 2004 c 199 s 215 are each amended to read as follows:

The department, with the approval of the board, may:

(1) Exchange property held in the land bank for any other lands of equal value administered by the department, including ((~~any~~)) state lands ((~~held in trust.~~)) and state forestlands;

(2) Exchange property held in the land bank for property of equal or greater value which is owned publicly or privately, and which has greater potential for natural resource or income production or which could be more efficiently managed by the department, however, no power of eminent domain is hereby granted to the department; ((~~and~~))

(3) ((~~Sell property held in the land bank in the manner provided by law for the sale of state lands~~)) Except as provided in subsection (4) of this section, sell property that has been exchanged into and is held in the land bank as provided under RCW 79.11.340 without any requirement of platting and ((~~to~~)) use the proceeds to acquire property for the land bank which has greater potential for natural resource or income production or which would be more efficiently managed by the department; and

(4) If a department lessee owns and resides in a house located on land that has been exchanged into and is held in the land bank, sell the land directly to the lessee for the appraised fair market value of the land and use the proceeds of the sale as provided in subsection (3) of this section. If the lessee does not purchase the land for the appraised fair market value, the department shall sell the land as provided under subsection (3) of this section.

Sec. 11. RCW 79.11.340 and 2003 c 334 s 399 are each amended to read as follows:

(1) Except as provided in RCW 79.10.030(2), the department shall manage and control all lands acquired by the state by escheat, deed of sale, gift, devise, or under RCW 79.19.010 through 79.19.110, except such lands that are conveyed or devised to the state for a particular purpose.

(2) ((~~When~~)) Except as provided in RCW 79.19.030(4), when the department determines to sell the lands, they ((~~shall~~)) may initially be offered for sale either at public auction or direct ((~~sale~~)) transfer to public agencies as provided in this chapter.

(3) ((~~If the lands are not sold at public auction, the~~)) The department may, with approval of the board, market the lands through persons licensed under chapter 18.85 RCW or through other commercially feasible means at a price not lower than the land's appraised value.

(4) Necessary marketing costs may be paid from the sale proceeds. For the purpose of this subsection, necessary marketing costs include reasonable costs associated with advertising the property and paying commissions.

(5) Proceeds of the sale shall be deposited into the appropriate fund in the state treasury unless the grantor in any deed or the testator in case of a devise specifies that the proceeds of the sale be devoted to a particular purpose.

Sec. 12. RCW 79.22.140 and 2012 c 166 s 3 are each amended to read as follows:

(1) The board may create a state forestland pool, to be managed in accordance with this section, if the board determines that creation of a land pool is in the best interest of the state or affected trust, based on an analysis prepared by the department under RCW 79.22.150. ((~~The land pool may not contain more than ten thousand acres of state forestland at any one time.~~))

(2) A county is eligible to participate in a land pool if the board determines it((~~:~~

~~(a) Has a population of twenty-five thousand or less; and~~

~~(b) Has~~)) has existing state forestlands encumbered with timber harvest deferrals, associated with wildlife species listed under the federal endangered species act, more than ((~~thirty~~)) 30 years in length.

(3) All lands in the land pool are state forestlands and must be managed in the same manner and with the same responsibilities as other state forestlands. Proceeds from the state forestland pool must, except as provided in RCW 79.64.110, be distributed under RCW 79.22.010 and 79.22.040.

(4)(a) A county may participate in the land pool only if it is eligible, as determined under subsection (2) of this section, and the board receives a written request to do so by the legislative authority of that county.

(b) The board shall end any further participation of a county in the land pool if it receives a written request to do so by the legislative authority of that county.

If the board receives such a request, that county's interest in the land pool as a beneficiary remains, but no new contributions of asset value may be made to the land pool on behalf of the county and no new lands may be purchased in that county for the land pool.

(5)(a) If a land pool is created by the board, the department and the participating counties must develop a funding strategy for acquiring land to include in the land pool.

(b) The department and participating counties may pursue funding for the transfer of state forestland encumbered by long-term wildlife-related harvest deferrals within the participating counties into status as a natural area preserve under chapter 79.70 RCW or a natural resources conservation area under chapter 79.71 RCW, and use the value of the transferred land to acquire working forestlands to include in the land pool.

(c) The department and participating counties may pursue other land acquisition funding strategies.

(6) The department may acquire replacement state forestland located outside of counties participating in a state forestland pool when the department has transferred some or all of the encumbered state forestlands of the counties to natural area status under chapter 79.70 or 79.71 RCW.

(a) Counties participating in a state forestland pool that desire to have the department acquire replacement lands in a designated county not included in the state forestland pool shall provide the department an agreement entered with the designated county that meets the following requirements:

(i) The designated county shall not object to forest practices undertaken on the replacement state forestland in conformity with all applicable laws and rules;

(ii) The counties participating in the state forestland pool acknowledge that they shall pass through the payment in lieu of taxes to which they are entitled, under RCW 79.70.130 or 79.71.130, to the designated county in which replacement lands are purchased, on an acre for acre basis;

(iii) If the designated county desires to terminate the agreement, the designated county shall be required to pay the department the fair market value of the replacement forestlands, including the value of valuable materials attached to the lands, at the time of termination based on an appraisal accepted by the department and approved by the board; and

(iv) The board of county commissioners for the designated county and each county participating in the state forestland pool approves the agreement in the manner provided by RCW 42.30.060.

(b) When the department receives an agreement meeting the requirements of (a) of this subsection, the department shall make reasonable efforts to acquire working forestlands within the designated county to include in the state forestland pool.

(c) The counties participating in the state forestland pool shall pass through the payment in lieu of taxes to which they are entitled under RCW 79.70.130 or 79.71.130, based on the encumbered state forestlands within their counties transferred to natural area status, to the designated county in which the replacement state forestlands are located, on an acre for acre basis.

(d) Whenever the board of county commissioners of the county in which the replacement state forestlands are located determines to terminate the agreement described in (a) of this subsection, the board of county commissioners shall

notify the department and the counties participating in the state forestland pool. The department shall transfer the replacement state forestlands to the county upon receipt of the fair market value of the lands, including the value of valuable materials attached to the lands, as determined by appraisal and approved by the board. The proceeds shall be placed in the parkland trust revolving fund and be solely used by the department to buy replacement land within the counties participating in the subject state forestland pool or another county with which the participating counties have entered an agreement under (a) of this subsection.

(e) The authority provided by this subsection to acquire replacement state forestlands located outside of the counties participating in a state forestland pool does not preclude the department from acquiring replacement lands within the counties participating in the state forestland pool as necessary to fully replace the encumbered state forestlands transferred under RCW 79.22.060(1)(b).

Sec. 13. RCW 79.19.050 and 2003 c 334 s 529 are each amended to read as follows:

((~~The legislature may authorize appropriation of funds from the forest development account or the resource management cost account for the purposes of this chapter.~~)) Income from the sale ((~~or management~~)) of property in the land bank shall be ((~~returned as a recovered expense to the forest development account or the resource management cost account~~)) deposited in the land bank account created in section 14 of this act and may be used to acquire property under RCW 79.19.020.

NEW SECTION. **Sec. 14.** A new section is added to chapter 79.19 RCW to read as follows:

The land bank account is created in the state treasury. To this account shall be deposited such funds as the legislature directs or appropriates. Expenditures from this account may be used only to acquire property under RCW 79.19.020. Expenditures from this account may be made only after appropriation.

NEW SECTION. **Sec. 15.** Sections 2 and 3 of this act are each added to chapter 79.17 RCW and codified with the subchapter heading "part 4, trust land transfer program."

Passed by the House April 17, 2023.
Passed by the Senate April 8, 2023.
Approved by the Governor May 9, 2023.
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CHAPTER 384

[House Bill 1536]

HIGH SCHOOL DIPLOMAS—WITHHOLDING FOR PROPERTY DAMAGE

AN ACT Relating to requirements governing the withholding of high school diplomas; and amending RCW 28A.635.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.635.060 and 2021 c 120 s 1 are each amended to read as follows:

(1)(a) Any pupil who defaces or otherwise injures any school property, or property belonging to a school contractor, employee, or another student, may be

subject to suspension and punishment. If any property of the school district, a contractor of the district, an employee, or another student has been lost or willfully cut, defaced, or injured, with the damages exceeding $1,000, the school district may withhold the diploma, but not the grades or transcripts, of the student responsible for the damage or loss for the earlier of either five years from the date of the student's graduation or until the ((~~student or the student's parent or guardian has paid for the damages. When~~)) amount owed is less than $1,000.

(b) If the student and parent or guardian are unable to pay for the damages, the school district shall provide a program of community service for the student in lieu of the payment of monetary damages. Community service completed in accordance with this subsection (1)(b) must be credited at the applicable local or state minimum wage, whichever is greater. Upon the completion of community service that reduces the amount owed to less than $1,000, the diploma of the student must be released. The parent or guardian of the student shall be liable for damages as otherwise provided by law.

(2) Before the diploma is withheld under this section, a school district board of directors shall adopt procedures ((~~which insure~~)) to ensure that students' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, ((~~are not to~~)) may not be withheld for nonpayment of school fees or any other reason.

(4)(((~~(a)~~))) Each school district that withholds a diploma under this section shall publish and maintain the following information on its website, either with information published under RCW 28A.325.050 or in a different location on its website that facilitates easy access to the information:

(((~~(i)~~))) (a) The number of diplomas withheld under this section, by graduating class, during the ((~~previous three~~)) preceding five school years, with data from the prior reporting year updated annually to reflect the release of diplomas in accordance with this section; and

(((~~(ii)~~))) (b) The number of students with withheld diplomas who were eligible for free or reduced-price meals during their last two years of enrollment in the school district.

((~~(b) To the extent practicable, school districts must publish the information required by this subsection (4) with the information published under RCW 28A.325.050.~~))

Passed by the House February 27, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 9, 2023.
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CHAPTER 385

[Second Substitute House Bill 1578]

WILDFIRES—HEALTH AND SAFETY IMPACTS—PLANNING

AN ACT Relating to improving community preparedness, response, recovery, and resilience to wildland fire health and safety impacts in areas of increasing population density, including in the wildland urban interface; adding a new section to chapter 76.04 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that, just as the forests on the east side of the state are being impacted by climate change, western Washington forests, too, are seeing increasing vulnerabilities to forest health and resilience. The frequency and severity of wildfires, resulting smoke incursions, and postfire flash floods and debris flow in areas of increasing population density are expected to intensify in the years to come, fueled by drought, pests, and disease, and increasing temperatures.

(2) The legislature recognizes that communities within the wildland urban interface and in areas of high or growing population density are increasingly experiencing more frequent and severe wildfires, resulting smoke exposure, flash floods, and debris flow, and that this intensifies health and safety hazards for residents, infrastructure, and ecosystems.

(3) The legislature finds that lives, health, and infrastructure are endangered by unplanned wildland fires, associated smoke exposure, and postwildfire debris flow hazards in Washington state. Wildland fires come with cascading and multihazard impacts on air quality and the health of our residents. Therefore, investing in wildland fire community preparedness, recovery, and resilience provides important cobenefits that will improve the health and safety of residents, infrastructure, and ecosystems in forested and nonforested areas and will reduce the economic burden on local governments, organizations, communities, and the state.

(4) The legislature acknowledges that public health and emergency management preparedness aligns with the state's environmental justice goals, where programming and interventions support vulnerable populations and those living in regions experiencing disproportionately high levels of wildfire, air pollutants, and smoke exposure.

(5) The legislature recognizes that there is a need for a comprehensive approach to public safety and health related to evacuation planning, emergency response and stabilization, creating resilience to wildfire smoke, and postfire landslide hazard identification and mitigation. A key priority during a wildfire response is engaging relevant evacuation and emergency response plans. A key priority in wildfire recovery is emergency stabilization to prevent increased damage to life, infrastructure, or natural resources, and longer-term stabilization and rehabilitation efforts may need to be continued for several years following a wildfire to prevent unacceptable and dangerous land and water degradation.

(6) The legislature recognizes that while smoke from wildland fires can affect individuals differently based on a multitude of different factors, the negative health effects of poor air quality are well established. A study led by the office of financial management and the department of ecology found that when air quality is categorized as "unhealthy," as compared to "good," due to wildfire smoke, there is a 24 percent increase in medical service claims related to asthma and a 12 percent increase in emergency department visits.

(7) The legislature finds that cross-agency emergency management planning and response that addresses wildland fires and related smoke is important to the health and safety of the residents of Washington. It is critical to provide timely smoke impact and forecast information and messaging to the public that is accessible and based on the best available science.

(8) The legislature recognizes that having clean and properly ventilated indoor air is important to protect the health of all residents. Those who

experience acute or chronic health challenges are at greater risk of the effects of hazardous or polluted air. During wildfire events that lead to increased smoke in the ambient air, public health officials often recommend staying indoors and closing doors and windows. However, particularly on the western side of the state, many homes do not have air conditioning systems. Compared to nearly all other states, Washington homes have some of the fewest air conditioning systems. Accordingly, during the warmest days of summer, when wildfire events are most common, doors and windows are opened for ventilation purposes, which inadvertently allows smoke to enter the home and degrade indoor air quality.

(9) The legislature recognizes the work that the department of natural resources has done to implement RCW 76.04.505, and that, based on a robust prioritization process, the department of natural resources has focused a majority of its efforts to date on wildfire prevention and preparedness on the east side of the state.

(10) The legislature acknowledges that the department of natural resources' community resilience programming for community-level and property-level wildfire readiness has been successfully implemented in numerous counties throughout eastern Washington and that broadening the program statewide and incorporating smoke readiness programming will benefit communities, residents, and local governments facing growing wildfire-related risks.

(11) Therefore, the legislature finds that, given the increasing impacts on the rapidly growing wildland urban interface and in areas of increasing population density, the department of natural resources must now also accelerate efforts to address the threats facing them. This includes, but is not limited to, improving community preparedness, response, recovery, and resilience related to wildland fire, smoke, and postfire flash floods and debris flow.

NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04 RCW to read as follows:

(1)(a) The department must assess areas at significant risk for wildfire, by decade, for a period encompassing not less than 30 years. The assessment must include an analysis of the predicted climate influence on wildfire risk in the state and provide enough detail for landowners, the public, local governments, and federally recognized Indian tribes to develop strategies to address wildfire risk. The department must provide the first risk assessment to the appropriate committees of the legislature by July 1, 2027, covering a risk assessment period of July 1, 2027, through June 30, 2037. A subsequent decadal assessment is due to the appropriate committees of the legislature every 10 years thereafter. The department must also provide a mid-decade interim report to the appropriate committees of the legislature by July 1, 2032, and every 10 years thereafter.

(b) The department must coordinate with counties on an update to wildland urban interface maps consistent with RCW 43.30.580.

(2) The department, in consultation with the Washington military department emergency management division and the Washington state patrol, must cooperate with law enforcement, federally recognized Indian tribes, emergency managers at the city and county level, and local fire protection districts to develop public safety evacuation strategies for areas identified in the respective decadal assessments as facing significant risk of wildfire. The department must provide support to help incorporate wildfire evacuation

strategies within existing regional and local emergency response plans. Implementation of evacuation strategies remains under the authority of local law enforcement.

(3) The department must lead a project to provide emergency disaster and evacuation plan messaging and information to the public at department-managed recreation and outdoor access sites. Information must be displayed in an accessible manner, including in signage at trailheads, and be relevant to the area's particular natural disaster risk profile. The department must place particular emphasis on ensuring accessibility and accommodation needs of public visitors are reflected in planning, design, and information dissemination.

(4) Further, the department shall:

(a) Expand its community resilience and preparedness programming, for community-level and property-level wildfire readiness, and the associated supporting programs such as community resilience grants and service forestry, within the wildland urban interface in counties or regions of western Washington where risk of wildfires and smoke exposure exist as determined by the department;

(b) Participate in cross-agency emergency management planning and response efforts related to wildfire smoke plans developed under chapter 38.52 RCW. The department shall incorporate smoke readiness into community resilience programming and coordinate with state, county, federal agencies, and federally recognized Indian tribes to collaboratively share information and guidance for Washington communities affected by wildfire smoke. This includes providing updated wildfire information to air quality and health agencies and to the public through online information sources.

(i) The department shall coordinate cross-agency and shall provide information to assess wildland fire smoke risks and impacts. Activities may include:

(A) Coordinating with the department of ecology, local clean air agencies, and the United States forest service to deploy temporary air monitors to assess smoke conditions during wildfires;

(B) Providing information to the department of ecology to continue to improve smoke modeling and forecasting tools and support regulatory compliance;

(C) Advancing science and conducting research on wildfire smoke event recurrence geographically, based on different forest types and incorporating this research into planning efforts; and

(D) Information dissemination to the public through online information sources.

(ii) The provisions of this section may not impact or prevent the implementation of prescribed burns to improve forest health and resiliency and reduce wildfire risks.

(iii) The department shall work cross-agency to address smoke risk to transportation safety and firefighter exposure to smoke.

(iv) The department, in collaboration with the departments of health and ecology, shall conduct community engagement and outreach related to wildfire smoke risks and impacts, particularly in regions of the state that experience disproportionately high levels of air contaminants and pollutants. Particular emphasis in outreach will be focused on overburdened populations, and

vulnerable people, including outdoor workers, those older in age, those experiencing persistent health challenges, and those experiencing unstable housing arrangements;

(c) Leverage community resilience programming to ensure residents and community organizations are provided information about services and programs to improve indoor air quality in the home. This may include connecting residents with their local contracted weatherization agency, which may provide home weatherization services to eligible applicants and residents. Weatherization upgrades may save energy, reduce utility costs, and improve indoor air quality;

(d) By July 1, 2028, implement a postwildfire debris flow program. The department shall identify areas prone to hazards from postwildfire debris flows, assess burned areas to determine potential for increases in postwildfire debris flow hazards, improve modeling to determine triggers for postwildfire debris flow early warning for at-risk communities and infrastructure, and communicate to emergency managers, local governments, stakeholders, state agencies, and the public both for preparedness and response; and

(e) By December 30, 2027, have established a structure for a state sponsored burned area emergency stabilization and response team and make recommendations regarding the appropriate number of teams needed, the funding necessary to support team deployments, and the implementation of hazard mitigation. The department shall provide capacity-building to local communities to establish local teams. The purpose of the burned area emergency stabilization and response team is to determine the need for emergency postfire treatments for public safety and resource protection. The department must consult with emergency managers, the military department, and the Washington conservation commission when developing the organizational structure of the teams established in this section.

(5) The department, when acting in good faith in its implementation of this section, is carrying out duties owed to the public in general and not to any individual person or class of persons separate and apart from the public. Nothing contained in this section may be construed to evidence a legislative intent that the work of preparing for, responding to, or recovering from wildfire, smoke incursions, or postfire landslides is owed to any individual person or class of persons separate and apart from the public in general. This section does not alter the department's duties and responsibilities as a landowner.

(6) Until July 1, 2025, the assessments and reports required by this section are only intended to assist with improving community preparedness, response, recovery, and resilience to wildland fires and are not intended and may not be used in the development of, or as the basis of, any regulations by a state agency or a local governmental entity.

NEW SECTION. **Sec. 3.** This act may be known and cited as the cascading impacts of wildfires act.

Passed by the House April 17, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor May 9, 2023.

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CHAPTER 386

[House Bill 1622]

STUDENTS EXPERIENCING HOMELESSNESS—GRANT PROGRAMS—MODIFICATION

AN ACT Relating to supporting the needs of students experiencing homelessness; amending RCW 28A.300.542; and reenacting and amending RCW 43.185C.340.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.300.542 and 2019 c 412 s 1 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall create a competitive grant process to evaluate and award state-funded grants to school districts to increase identification of students experiencing homelessness and the capacity of the districts to provide support for students experiencing homelessness. The goals of the grant process are to:

(a) Provide educational stability for students experiencing homelessness by promoting housing stability; and

(b) Encourage the development of collaborative strategies between education and housing partners.

(2)(a) Funds may be used in a manner that is complementary to federal McKinney-Vento funds and consistent with allowable uses as determined by the office of the superintendent of public instruction. The process must complement any similar federal grant program or programs in order to minimize agency overhead and administrative costs for the superintendent of public instruction and school districts.

(b) Examples of permitted student supports and activities include, but are not limited to:

(i) Direct academic supports, including tutoring and additional transportation costs;

(ii) Basic needs, including retail store cards, nutrition supports, and hygiene items;

(iii) Wraparound supports, including contracting with community-based providers, behavioral and physical health supports, and housing-related supports, such as bedding and short-term hotel or motel stays, that meet a student's emergent needs and allow the student to fully participate in school;

(iv) Employment supports for students and families; and

(v) Out-of-school enrichment activities, such as an academic tutor provided at a shelter.

(3) School districts may access both federal and state funding to identify and support students experiencing homelessness and are encouraged to use grant dollars to leverage community resources and strengthen relationships with community-based partners.

((~~(2)~~)) (4) Award criteria for the state grants must be based on the demonstrated need of the school district and may consider the number or overall percentage, or both, of homeless children and youths enrolled in preschool, elementary, and secondary schools in the school district, and the ability of the local school district to meet these needs. Award criteria for these must also be based on the quality of the applications submitted. Selected grantees must reflect

geographic diversity across the state. Greater weight must be given to districts that demonstrate a commitment to:

(a) Partnering with local ((~~housing and~~)) community-based organizations with experience in serving the needs of students experiencing homelessness or students of color, with a preference for organizations that focus on equitable housing and homeless strategies;

(b) Serving the needs of unaccompanied youth; and

(c) Implementing evidence-informed strategies to address the opportunity gap and other systemic inequities that negatively impact students experiencing homelessness and students of color. Specific strategies may include, but are not limited to:

(i) Enhancing the cultural responsiveness of current and future staff;

(ii) Ensuring all staff, faculty, and school employees are actively trained in trauma-informed care;

(iii) Providing inclusive programming by intentionally seeking and utilizing input from the population being served;

(iv) Using a multidisciplinary approach when serving students experiencing homelessness and their families;

(v) Intentionally seeking and utilizing input from the families and students experiencing homelessness about how district policies, services, and practices can be improved; and

(vi) Identifying data elements and systems needed to monitor progress in eliminating disparities in academic outcomes for students experiencing homelessness with their housed peers.

((~~(3)~~)) (5) At the end of each academic year, districts receiving grants shall monitor and report on the academic outcomes for students served by the grants. The academic outcomes are those recommended by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall review the reports submitted by the districts and assist school districts in using these data to identify gaps and needs, and develop sustainable strategies to improve academic outcomes for students experiencing homelessness.

((~~(4)~~)) (6) Students experiencing homelessness are defined as students without a fixed, regular, and adequate nighttime residence in accordance with the definition of homeless children and youths in the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11431 through 11435.

((~~(5)~~)) (7) School districts may not use funds allocated under this section to supplant existing federal, state, or local resources for supports for students experiencing homelessness, which may include education liaisons.

((~~(6)~~)) (8) Grants awarded to districts under this section may be for two years.

(9) The office of the superintendent of public instruction and the department of commerce shall:

(a) Collaborate on shared goals and outcomes under the grant process established by this section and the grant program established in RCW 43.185C.340; and

(b) Beginning in 2024, and every two years thereafter, jointly produce and make publicly available a report on the goals and outcomes of the grant process

established by this section and the grant program established in RCW 43.185C.340.

Sec. 2. RCW 43.185C.340 and 2019 c 412 s 2 and 2019 c 325 s 5015 are each reenacted and amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the department shall administer a grant program that links students experiencing homelessness and their families with stable housing located in the student's school district. The goals of the program are to:

(a) Provide educational stability for students experiencing homelessness by promoting housing stability; and

(b) Encourage the development of collaborative strategies between housing and education partners.

(2) To ensure that innovative strategies between housing and education partners are developed and implemented, the department may contract and consult with a designated vendor to provide technical assistance and program evaluation, ((~~and~~)) assist with making grant awards, and support collaboration between the department and the office of the superintendent of public instruction. If the department contracts with a vendor, the vendor must be selected by the director and:

(a) Be a nonprofit vendor;

(b) Be located in Washington state; and

(c) Have a demonstrated record of working toward the housing and educational stability of students and families experiencing homelessness.

(3) In implementing the program, the department, or the department in partnership with its designated vendor, shall consult with the office of the superintendent of public instruction.

(4)(a) The department, or the designated vendor in consultation with the department, shall develop a competitive grant process to make grant awards to eligible organizations on implementation of the proposal. For the purposes of this subsection, "eligible organization" means any local government, local housing authority, behavioral health administrative services organization established under chapter 71.24 RCW, behavioral health organization, nonprofit community or neighborhood-based organization, federally recognized Indian tribe in the state of Washington, or regional or statewide nonprofit housing assistance organization. Applications for the grant program must include a letter of support from the applicable school districts. Within 60 days of receiving a grant award under this section, a memorandum of understanding must be established between the housing providers and school districts defining the responsibilities and commitments of each party to identify, house, and support students experiencing homelessness. The memorandum must include:

(((~~(a)~~))) (i) How housing providers will partner with school districts to address gaps and needs and develop sustainable strategies to help students experiencing homelessness; and

(((~~(b)~~))) (ii) How data on students experiencing homelessness and their families will be collected and shared in accordance with privacy protections under applicable federal and state laws.

(b) If a memorandum of understanding cannot be established as required by (a) of this subsection, the housing provider and school districts may work with the department on a case-by-case basis to provide, in lieu of a memorandum of

understanding, a detailed accountability plan for a partnership between the housing provider and the school districts.

(5) In determining which eligible organizations will receive grants, the department must ensure that selected grantees reflect geographic diversity across the state. Greater weight shall be given to eligible organizations that demonstrate a commitment to:

(a) Partnering with local schools or school districts as demonstrated by a letter of support; and

(b) Developing and implementing evidence-informed strategies to address racial inequities. Specific strategies may include, but are not limited to:

(i) Hiring direct service staff who reflect the racial, cultural, and language demographics of the population being served;

(ii) Committing to inclusive programming by intentionally seeking and utilizing input from the population being served;

(iii) Ensuring eligibility criteria does not unintentionally screen out people of color and further racial inequity; and

(iv) Creating access points in locations frequented by parents, guardians, and unaccompanied homeless youth of color.

(6) Activities eligible for assistance under this grant program include but are not limited to:

(a) Rental assistance, which includes utilities, security and utility deposits, first and last month's rent, rental application fees, moving expenses, and other eligible expenses to be determined by the department;

(b) Transportation assistance, including gasoline assistance for students and families with vehicles and bus passes;

(c) Emergency shelter;

(d) Housing stability case management; and

(e) Other collaborative housing strategies, including prevention and strength-based safety and housing approaches.

(7)(a) All beneficiaries of funds from the grant program must be from households that include at least one student experiencing homelessness as defined as a child or youth without a fixed, regular, and adequate nighttime residence in accordance with the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11431 through 11435.

(b) For the purposes of this section, "student experiencing homelessness" includes unaccompanied homeless youth not in the physical custody of a parent or guardian. "Unaccompanied homeless youth" includes students up to the age of twenty-one, in alignment with the qualifications for school admissions under RCW 28A.225.160(1).

(8)(a) Grantee organizations must compile and report information to the department. The department shall report to the legislature the findings of the grantee, the housing stability of the homeless families, and any related policy recommendations.

(b) Grantees must track and report on the following measures including, but not limited to:

(i) Length of time enrolled in the grant program;

(ii) Housing destination at program exit;

(iii) Type of residence prior to enrollment in the grant program; and

(iv) Number of times homeless in the past three years.

(c) Grantees must also include in their reports a narrative description discussing its partnership with school districts as set forth in the memorandum outlined in subsection (4) of this section. Reports must also include the kinds of supports grantees are providing students and families to support academic learning.

(d) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180.

(9) In order to ensure that housing providers are meeting the requirements of the grant program for students experiencing homelessness, the department, or the department in partnership with its designee, shall monitor the program at least once every two years.

(10) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the department. In its review, the department, or the department in partnership with its designee, shall monitor program components that include the process used by the eligible organization to identify and reach out to students experiencing homelessness, and other indicators to determine how well the eligible organization is meeting the housing needs of students experiencing homelessness. The department, or the department in partnership with its designee, shall provide technical assistance and support to housing providers to better implement the program.

(11) The department is subject to the requirements established in RCW 28A.300.542(9).

Passed by the House April 13, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor May 9, 2023.
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CHAPTER 387

[Second Substitute House Bill 1639]

BILLY FRANK JR.—NATIONAL STATUARY HALL SELECTION COMMITTEE AND RECOGNIZED DAY

AN ACT Relating to the Billy Frank Jr. national statuary hall selection committee; amending RCW 1.16.050; amending 2021 c 20 s 3 (uncodified); reenacting and amending RCW 43.79A.040; adding a new section to chapter 42.52 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. 2021 c 20 s 3 (uncodified) is amended to read as follows:

(1) The Billy Frank Jr. national statuary hall selection committee is established to represent the state in the duties set forth under subsection (3) of this section.

(2)(a) The committee shall consist of the following members:

(i) ((~~The governor or the governor's designee;~~

~~(ii)~~)) The lieutenant governor;

(((~~(iii) The speaker of the house of representatives;~~

~~(iv) The minority leader of both the senate and house of representatives;~~

~~(v) Two members~~)) (ii) One member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house and the minority leader;

(iii) One member from each of the two largest caucuses in the senate, appointed by the majority leader and the minority leader;

(iv) One member who represents the western Washington treaty tribes, appointed by the governor. The governor shall solicit from the northwest Indian fisheries commission a list of at least three nominees representing the western Washington treaty tribes and, in making the appointment, shall consider the list of nominees submitted;

(((~~(vi) One member representing an environmental, conservation, or environmental justice nonprofit organization, appointed by the governor;~~

~~(vii)~~)) (v) One member from Billy Frank Jr.'s family, appointed by the governor;

(((~~(viii) One member from the Washington state legacy project, created under RCW 43.07.363;~~

~~(ix)~~)) (vi) One member from the division of archives and records management, established under RCW 40.14.020;

(((~~(x)~~)) (vii) One member from the Washington state historical society; and

(((~~(xi) One member from the Washington state department of archaeology and historic preservation; and~~

~~(xii)~~)) (viii) One member from the Washington state arts commission.

(b) The members described in (a) of this subsection shall select ((~~a chair~~)) three cochairs of the committee.

(3) Upon the approval of the request under section 2, chapter 20, Laws of 2021 by the joint committee on the library of congress, the governor shall convene the committee, and the committee shall:

(a) Enter into an agreement with the architect of the United States capitol pursuant to 2 U.S.C. Sec. 2132 to carry out the replacement of the statues as described in chapter 20, Laws of 2021;

(b) Select and contract with a sculptor to design and carve or cast a statue of Billy Frank Jr., and design and fabricate its pedestal, to be placed in the national statuary hall collection;

(c) ((~~Ensure~~)) Support and oversee the design and creation of the statue of Billy Frank Jr., and ensure that the statue designed and created under (b) of this subsection complies with the conditions and restrictions set forth under 2 U.S.C. Sec. 2131;

(d) Support and oversee all communications, public relations, outreach, and educational materials related to the design, creation, and unveiling of the statue. The committee may enter into an agreement with a qualified communications firm or organization as necessary to accomplish this task;

(e) Arrange, in coordination with the sculptor and the department of enterprise services, for a duplicate cast of the statue to be created and installed at the legislative building on the capitol campus in Olympia;

(f) Arrange, in coordination with the architect of the United States capitol, for the removal and transportation of the Marcus Whitman statue to Washington, and arrange for an unveiling ceremony at the relocation site as selected in accordance with section 4, chapter 20, Laws of 2021;

(((~~(e)~~))) (g) Arrange for the transportation and placement of the Billy Frank Jr. statue in the national statuary hall, in coordination with the architect of the United States capitol;

(((~~(f)~~))) (h) Arrange for one or more ceremonies to celebrate the unveiling of the Billy Frank Jr. statues in the national statuary hall and on the capitol campus. The ceremonies may take place in Washington state, the United States capitol, or both; and

(((~~(g)~~))) (i) Perform all other matters and things necessary to carry out the purpose and provisions of this section.

(4) The committee shall enter into an agreement with the Nisqually tribe, of which Billy Frank Jr. was a member, to provide cultural competency to the committee as it carries out its duties under this section, and to any state agencies involved in implementation of this section. The tribe shall be compensated for its services under this subsection.

(5) The committee and the Washington state historical society may solicit and accept gifts, grants, or endowments from public and private sources that are made in trust or otherwise for the use and benefit of the purposes of the committee in carrying out chapter 20, Laws of 2021. The committee may spend gifts, grants, or endowments or income from public or private sources according to their terms. All receipts from gifts, grants, and endowments received pursuant to this subsection must bedeposited in the Billy Frank Jr. national statuary hall collectionfund established under RCW 43.08.800.

(((~~(5) No general fund resources may be expended to implement this section.~~)))

(6) The implementation of this section shall first be funded through moneys in the Billy Frank Jr. national statuary hall collection fund. Any additional funding necessary may be provided from the state general fund. Any funds remaining in the Billy Frank Jr. national statuary hall collection fund upon completion of the tasks described under chapter 20, Laws of 2021, must be granted to the Washington state historical society.

(7) The Washington state arts commission may submit expenses for reimbursement to the committee for providing administrative support to the committee, coordinating and overseeing artist selection, and managing procurements.

(8) For the purposes of this section, "committee" means the Billy Frank Jr. national statuary hall selection committee.

Sec. 2. RCW 43.79A.040 and 2022 c 244 s 3, 2022 c 206 s 8, 2022 c 183 s 16, and 2022 c 162 s 6 are each reenacted and amended to read as follows:

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

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

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state

treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

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

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the Billy Frank Jr. national statuary hall collection fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county ((~~enhanced~~)) 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the

blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the Washington student loan account, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

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

Sec. 3. RCW 1.16.050 and 2021 c 295 s 2 are each amended to read as follows:

(1) The following are state legal holidays:

(a) Sunday;

(b) The first day of January, commonly called New Year's Day;

(c) The third Monday of January, celebrated as the anniversary of the birth of Martin Luther King, Jr.;

(d) The third Monday of February, to be known as Presidents' Day and celebrated as the anniversary of the births of Abraham Lincoln and George Washington;

(e) The last Monday of May, commonly known as Memorial Day;

(f) The nineteenth day of June, recognized as Juneteenth, a day of remembrance for the day the African slaves learned of their freedom;

(g) The fourth day of July, the anniversary of the Declaration of Independence;

(h) The first Monday in September, to be known as Labor Day;

(i) The eleventh day of November, to be known as Veterans' Day;

(j) The fourth Thursday in November, to be known as Thanksgiving Day;

(k) The Friday immediately following the fourth Thursday in November, to be known as Native American Heritage Day; and

(l) The twenty-fifth day of December, commonly called Christmas Day.

(2) Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for in this section after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

(3) Employees of the state and its political subdivisions, including employees of school districts and those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. This includes employees of public institutions of higher education, including community colleges, technical colleges, and workforce training programs. The employee may select the days on which the employee desires to take the two unpaid holidays after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority. If an employee prefers to take the two unpaid holidays on specific days for a reason of faith or conscience, or an organized activity conducted under the auspices of a religious denomination, church, or religious organization, the employer must allow the employee to do so unless the employee's absence would impose an undue hardship on the employer or the employee is necessary to maintain public safety. Undue hardship shall have the meaning established in rule by the office of financial management under RCW 43.41.109.

(4) If any of the state legal holidays specified in this section are also federal legal holidays but observed on different dates, only the state legal holidays are recognized as a paid legal holiday for employees of the state and its political subdivisions. However, for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday is recognized as a paid legal holiday, but in no case may both holidays be recognized as a paid legal holiday for employees.

(5) Whenever any state legal holiday:

(a) Other than Sunday, falls upon a Sunday, the following Monday is the legal holiday; or

(b) Falls upon a Saturday, the preceding Friday is the legal holiday.

(6) Nothing in this section may be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

(7) The legislature declares that the following days are recognized as provided in this subsection, but may not be considered legal holidays for any purpose:

(a) The thirteenth day of January, recognized as Korean-American day;

(b) The twelfth day of October, recognized as Columbus day;

(c) The ninth day of April, recognized as former prisoner of war recognition day;

(d) The twenty-sixth day of January, recognized as Washington army and air national guard day;

(e) The seventh day of August, recognized as purple heart recipient recognition day;

(f) The second Sunday in October, recognized as Washington state children's day;

(g) The sixteenth day of April, recognized as Mother Joseph day;

(h) The fourth day of September, recognized as Marcus Whitman day;

(i) The seventh day of December, recognized as Pearl Harbor remembrance day;

(j) The twenty-seventh day of July, recognized as national Korean war veterans armistice day;

(k) The nineteenth day of February, recognized as civil liberties day of remembrance;

(l) The thirtieth day of March, recognized as welcome home Vietnam veterans day;

(m) The eleventh day of January, recognized as human trafficking awareness day;

(n) The thirty-first day of March, recognized as Cesar Chavez day;

(o) The tenth day of April, recognized as Dolores Huerta day;

(p) The fourth Saturday of September, recognized as public lands day; ((~~and~~))

(q) The eighteenth day of December, recognized as blood donor day; and

(r) The ninth day of March, recognized as Billy Frank Jr. day.

NEW SECTION. **Sec. 4.** A new section is added to chapter 42.52 RCW to read as follows:

This chapter does not prohibit the members of the Billy Frank Jr. national statuary hall selection committee, members of the legislature, when outside the period in which solicitation of contributions is prohibited by RCW 42.17A.560, or employees of the Washington state historical society from soliciting contributions for the purposes established in chapter 20, Laws of 2021, and for deposit into the Billy Frank Jr. national statuary hall collection fund created in RCW 43.08.800.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 14, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 388

[Substitute House Bill 1682]

WASHINGTON AUTO THEFT PREVENTION AUTHORITY ACCOUNT—DEPOSITS

AN ACT Relating to the Washington auto theft prevention authority account; amending RCW 46.63.110, 46.66.080, and 48.14.020; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The Washington auto theft prevention authority account was created in 2007 to provide dedicated funding from traffic infraction collections to support programs designed to prevent and prosecute motor vehicle theft. The legislature finds that over the years, funding from the account has been diverted to other nonauto theft uses such as department of corrections' operations and youth gang prevention programs. The legislature further finds that revenues from traffic infractions have decreased as more drivers access diversion and deferral programs designed to assist people with retaining their licenses. Fund diversions and decreasing traffic infraction revenue threaten the viability of motor vehicle theft prevention programs at a time when the number of motor vehicle thefts have increased 88 percent between the year 2021 and 2022. In order to provide more secure funding to combat and prevent motor vehicle theft, the legislature intends each fiscal year to deposit into the Washington auto theft prevention authority account $7,000,000 of insurance premium tax collections that would otherwise be deposited to the general fund and to have this deposit grow by inflation. The legislature further intends for moneys collected from the traffic infraction surcharge in RCW 46.63.110(7)(b) to be deposited into the state general fund.

Sec. 2. RCW 46.63.110 and 2021 c 240 s 3 are each amended to read as follows:

(1)(a) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed ((~~two hundred and fifty dollars~~)) $250 for each offense unless authorized by this chapter or title.

(b) The court may waive or remit any monetary penalty, fee, cost, assessment, or other monetary obligation associated with a traffic infraction unless the specific monetary obligation in question is prohibited from being waived or remitted by state law.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is ((~~two hundred fifty dollars~~)) $250 for each offense; (b) RCW 46.61.210(1) is ((~~five hundred dollars~~)) $500 for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of ((~~twenty-five dollars~~)) $25 for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed ((~~twenty-five dollars~~)) $25 for

failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines that a person is not able to pay a monetary obligation in full, the court shall enter into a payment plan with the person in accordance with RCW 46.63.190 and standards that may be set out in court rule.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of ((~~five dollars~~)) $5 per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ((~~ten dollars~~)) $10 per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the ((~~Washington auto theft prevention authority account~~)) general fund; and

(c) A fee of ((~~five dollars~~)) $5 per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of $24. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) $12.50 of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as follows: $8.50 in the state general fund and $4 in the driver licensing technology support account created under RCW 46.68.067. The moneys deposited into the driver licensing technology support account must be used to support information technology systems used by the department to communicate with the judicial information system, manage driving records, and implement court orders. The balance of the revenue received by the county or

city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the person may request a payment plan pursuant to RCW 46.63.190.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) ((~~Two hundred fifty dollars~~)) $250 for the first violation; (b) ((~~five hundred dollars~~)) $500 for the second violation; and (c) ((~~seven hundred fifty dollars~~)) $750 for each violation thereafter.

(11) The additional monetary penalty for a violation of RCW 46.20.500 is not subject to assessments or fees provided under this section.

(12) The additional monetary fine for a violation of RCW 46.61.110, 46.61.145, 46.61.180, 46.61.185, 46.61.190, and 46.61.205 is not subject to assessments or fees provided under this section.

(13) The additional monetary penalties for a violation of RCW 46.61.165 are not subject to assessments or fees provided under this section.

Sec. 3. RCW 46.66.080 and 2015 3rd sp.s. c 4 s 964 are each amended to read as follows:

(1) The Washington auto theft prevention authority account is created in the state treasury, subject to appropriation. ((~~All revenues from the traffic infraction surcharge in RCW 46.63.110(7)(b)~~)) Revenues consist of deposits to the account under RCW 48.14.020(1)(b) and all receipts from gifts, grants, bequests, devises, or other funds from public and private sources to support the activities of the auto theft prevention authority must be deposited into the account. Expenditures from the account may be used only for activities relating to motor vehicle theft, including education, prevention, law enforcement, investigation, prosecution, and confinement. ((~~During the 2011-2013, 2013-2015, and 2015-2017 fiscal biennia, the legislature may appropriate moneys from the Washington auto theft prevention authority account for criminal justice purposes and community building and may transfer funds to the state general fund such amounts as reflect the excess fund balance of the account.~~))

(2) The authority shall allocate moneys appropriated from the account to public agencies for the purpose of establishing, maintaining, and supporting programs that are designed to prevent motor vehicle theft, including:

(a) Financial support to prosecution agencies to increase the effectiveness of motor vehicle theft prosecution;

(b) Financial support to a unit of local government or a team consisting of units of local governments to increase the effectiveness of motor vehicle theft enforcement;

(c) Financial support for the procurement of equipment and technologies for use by law enforcement agencies for the purpose of enforcing motor vehicle theft laws; and

(d) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

(3) The costs of administration shall not exceed ((~~ten~~)) 10 percent of the moneys in the account in any one year so that the greatest possible portion of the moneys available to the authority is expended on combating motor vehicle theft.

(4) Prior to awarding any moneys from the Washington auto theft prevention authority account for motor vehicle theft enforcement, the auto theft prevention authority must verify that the financial award includes sufficient funding to cover proposed activities((~~, which include, but are not limited to: (a) State, municipal, and county offender and juvenile confinement costs; (b) administration costs; (c) law enforcement costs; (d) prosecutor costs; and (e) court costs, with a priority being given to ensuring that sufficient funding is available to cover state, municipal, and county offender and juvenile confinement costs~~)).

(5) Moneys expended from the Washington auto theft prevention authority account under subsection (2) of this section shall be used to supplement, not supplant, other moneys that are available for motor vehicle theft prevention.

(6) Grants provided under subsection (2) of this section constitute reimbursement for purposes of RCW 43.135.060(1).

Sec. 4. RCW 48.14.020 and 2021 c 281 s 7 are each amended to read as follows:

(1)(a) Subject to other provisions of this chapter, each authorized insurer except title insurers and registered eligible captive insurers as defined in RCW 48.201.020 shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection (3) of this section, such tax shall be in the amount of two percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer under RCW 48.14.090 during the preceding calendar year other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For tax purposes, the reporting of premiums shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement. For the purposes of this section the consideration received by an insurer for the granting of an annuity shall not be deemed to be a premium.

(b) Beginning July 1, 2023, and July 1st of each year thereafter, the state treasurer shall deposit $7,000,000 in moneys collected for premium taxes pursuant to this section into the Washington auto theft prevention authority account created in RCW 46.66.080. Beginning July 1, 2023, the amount deposited under this subsection must be adjusted by the most current seasonally adjusted index of the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor.

(2)(a) The taxes imposed in this section do not apply to amounts received by any life and disability insurer for health care services included within the definition of practice of dentistry under RCW 18.32.020 except amounts received for pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended, and for stand-alone family dental plans as defined in RCW 43.71.080(4)(a), only when offered in the individual market, as defined in RCW 48.43.005, or to a small group, as defined in RCW 48.43.005.

(b) Beginning January 1, 2014, moneys collected for premiums written on qualified health benefit plans and qualified dental plans offered through the health benefit exchange under chapter 43.71 RCW must be deposited in the health benefit exchange account under RCW 43.71.060.

(3) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the form of premiums or premium deposits which are the same in amount, based on the character of the risks, regardless of the length of term for which such policies are written, such tax shall be in the amount of two percent of the gross amount of such premiums and premium deposits upon policies on risks resident, located, or to be performed in this state, in force as of the thirty-first day of December next preceding, less the unused or unabsorbed portion of such premiums and premium deposits computed at the average rate thereof actually paid or credited to policyholders or applied in part payment of any renewal premiums or premium deposits on one-year policies expiring during such year.

(4) Each authorized insurer shall with respect to all ocean marine and foreign trade insurance contracts written within this state during the preceding calendar year, on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax of ninety-five one-hundredths of one percent on its gross underwriting profit. Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such ocean marine and foreign trade insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amounts refunded, or paid as participation dividends, by such insurers to the holders of such contracts.

(5) The state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their appointed insurance producers, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or these insurance producers.

(6) If an authorized insurer collects or receives any such premiums on account of policies in force in this state which were originally issued by another insurer and which other insurer is not authorized to transact insurance in this state on its own account, such collecting insurer shall be liable for and shall pay the tax on such premiums.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the House April 18, 2023.

Passed by the Senate April 12, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 389

[Engrossed House Bill 1823]

WASHINGTON STUDENT LOAN PROGRAM—MODIFICATION

AN ACT Relating to the Washington student loan program; amending RCW 28B.93.005, 28B.93.010, 28B.93.020, 28B.93.030, 28B.93.040, 28B.93.050, 28B.93.060, 43.84.092, and 43.84.092; reenacting and amending RCW 43.79A.040; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.93.005 and 2022 c 206 s 1 are each amended to read as follows:

(1) The legislature finds that college students continue to borrow in order to fund their higher education, despite an increase in access to state financial aid. In Washington state, estimates for the number of borrowers carrying student loan debt are around 800,000 with an average balance around $33,500, resulting in a total outstanding balance of $29.4 billion. Student loan debt outpaces other sources of consumer debt, such as credit card and vehicle debt. While research shows that earning a postsecondary credential positively impacts a person's earning potential, high student loan debt erodes much of this benefit.

(2) The legislature recognizes that people with student loan debt are less likely to get married and start a family, establish small businesses, and buy homes. High student loan debt negatively impacts a person's credit score and their debt-to-income ratio, which impacts their ability to qualify for a mortgage. However, student loan debt does not impact all borrowers the same.

(3) Student loan borrowers who struggle the most are typically lower income, first generation, and students of color. Data from the national center for education statistics of a 12-year longitudinal study based on students who began their education in the 2003-04 academic year found the following for students who defaulted: Almost 90 percent had received a Pell grant at one point; 70 percent were first generation college students; 40 percent were in the bottom quarter of income distribution; and 30 percent were African American.

(4) The legislature recognizes though that student loans are beneficial for students who have no other way to pay for college or have expenses beyond tuition and fees. Student loans can open up postsecondary education opportunities for many and help boost the state's economy by increasing the number of qualified graduates to fulfill workforce shortages. However, the legislature finds that high interest rates that accumulate while the student is in college negatively impact the student's ability to prosper financially and contribute to the state's economy after graduation. The legislature also recognizes that there is very little financial aid available to assist students pursuing graduate studies, despite the state's high demand for qualified professionals in fields with workforce shortages such as behavioral health, nursing, software development, teaching, and more. Therefore, the legislature intends to support students pursuing higher education by establishing a state student loan program that is more affordable than direct federal student loans and private loans. The legislature intends to offer student loans to state residents with financial need who are pursuing ((~~undergraduate and~~)) high-demand graduate studies at a subsidized((~~, one percent~~)) interest rate not to exceed 2.5 percent. The legislature intends for the Washington state student loan program to align with the Washington college grant program, recognizing that student loans

are secondary forms of financial aid that often cover expenses beyond tuition. ((~~Based on the feasibility of the state student loan program recommendations developed by the Washington student achievement council, in consultation with the Washington state investment board, and the office of the state treasurer, the legislature intends to finance the Washington state student loan program with a one-time $150,000,000 appropriation to cover annual student loan originations and expenses until repayments are substantial enough to support the program on an ongoing basis.~~))

Sec. 2. RCW 28B.93.010 and 2022 c 206 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) "Borrower" means an eligible student who has received a student loan under the Washington student loan program.

(2) "Eligible expenses" means reasonable expenses associated with the costs of acquiring a postsecondary education such as tuition, fees, books, equipment, room and board, and other expenses as determined by the office.

(3) "Eligible graduate program" means an advanced academic degree in a specialized field of study that has a workforce shortage or is considered high demand including, but not limited to, professions in health care, behavioral and mental health, early education, K-12, higher education, law enforcement, public safety, and others, as determined by the office.

(4) "Eligible student" means a student who:

(a) Meets the definition of "resident student" under RCW 28B.15.012(2) (a) through (e);

(b) Has a median family income of 100 percent or less of the state median family income;

(c) Is enrolled in an institution of higher education in an eligible ((~~undergraduate or~~)) graduate program on at least a half-time basis; and

(d) Has completed an annual application for financial aid as approved by the office.

(5) ((~~"Eligible undergraduate program" means a postsecondary education program that leads to a certificate, associate's degree, or bachelor's degree.~~

~~(6)~~)) "Gift aid" means federal, state, institutional, or private financial aid provided for educational purposes with no obligation of repayment. "Gift aid" does not include student loans or work-study programs.

(((~~(7)~~))) (6) "Institutions of higher education" includes institutions of higher education authorized to participate in state financial aid programs in accordance with chapter 28B.92 RCW.

(((~~(8)~~))) (7) "Office" means the office of student financial assistance established under chapter 28B.76 RCW.

(((~~(9)~~))) (8) "Program" means the Washington student loan program.

(((~~(10)~~))) (9) "Student loan" means a loan that is approved by the office and awarded to an eligible student to pay for eligible expenses.

Sec. 3. RCW 28B.93.020 and 2022 c 206 s 3 are each amended to read as follows:

(1) The Washington student achievement council, in consultation with the office of the state treasurer and the state investment board((~~,~~)), shall design a

student loan program to assist students who need additional financial support to obtain postsecondary education.

(2) At a minimum, the program design must make recommendations about the following features of a state student loan program and implementation plan:

(a) A low interest rate that is below current federal subsidized student loan interest rates((~~, with one option being a one~~)) not to exceed 2.5 percent ((~~interest rate~~));

(b) ((~~The distribution of loans between graduate students and undergraduate students;~~

~~(c)~~)) The terms of the loans, including:

(i) Loan limits not to exceed $20,000 annually per borrower;

(ii) Grace periods, including grace periods for active duty members of the national guard who may lose eligibility when being called up for active duty; and

(iii) Minimum postsecondary enrollment standards;

(((~~(d)~~))) (c) The terms and administration of a repayment program, including:

(i) Repayment options such as standard loan repayment contracts and the length of the repayment contracts, which shall not exceed 25 years;

(ii) Income-based repayment plans; and

(iii) Terms of loan forgiveness;

(((~~(e)~~))) (d) The types and characteristics of borrowers permitted to participate in the program including family income, degree and credential types, and other borrower characteristics. The program must prioritize low-income borrowers; and

(((~~(f)~~))) (e) The design and administration of an appeals process.

(3) In the design of the program, the Washington student achievement council may recommend contracting with one or more state-based financial institutions regulated by either chapter 31.12 or 30A.04 RCW to provide loan origination and may contract with a third-party entity to provide loan servicing for the program. The Washington student achievement council must use an open and competitive bid process in the selection of one or more ((~~state based~~)) financial institutions for loan origination and servicing for the program. A third-party entity providing loan servicing shall comply with all of the requirements for student education loan servicers under chapter 31.04 RCW.

(4) The Washington student achievement council ((~~shall contract with an independent actuary to conduct an analysis on the sustainability of the program design, including the ability of the program to operate as self-sustaining if issuing one percent interest rate loans~~)) may retain a consultant to design a loan program, including one or more financial advisors, to provide consultation on the sustainability of the loan program.

(5) The Washington student achievement council shall provide a report on the design, sustainability, and implementation plan for the program to the governor and the higher education committees of the legislature by December 1, ((~~2022~~)) 2023, in accordance with RCW 43.01.036.

Sec. 4. RCW 28B.93.030 and 2022 c 206 s 4 are each amended to read as follows:

(1) The Washington student loan program is created to assist students who need additional financial support to obtain postsecondary education. Beginning in the ((~~2024-25~~)) 2025-26 academic year, the office may award student loans

under the program to eligible students from the funds available in RCW 28B.93.060.

(2) The program shall be administered by the office. To the extent practicable, the program design must include the recommendations for program design as provided in the report required under RCW 28B.93.020((~~. Student loans shall not be issued unless the program design recommended in RCW 28B.93.020 is forecasted by an independent actuary to be self-sustaining and the interest rates for the loans issued under the program do not exceed one percent~~)), including that the Washington student loan account have a minimum life cycle of seven years and that loans issued under the program do not exceed 2.5 percent.

(3) The office is responsible for providing administrative support to execute the duties and responsibilities provided in this chapter. The duties and responsibilities include:

(a) Ensure institutions of higher education have a policy for awarding student loans under the program that prioritizes funding for eligible students who have greater unmet financial need, are lowest income, are first generation college students, ((~~and~~)) are demographically underrepresented, do not qualify for federally funded student financial aid, or who have received loans under the program in prior years;

(b) Issue low-interest student loans not to exceed 2.5 percent, of which interest accrues during all periods except when enrolled in an eligible graduate degree program;

(c) Define the terms of repayment, which shall not exceed 25 years in length unless provided for under (f) of this subsection;

(d) Collect and manage repayments from borrowers;

(e) Establish an appeals process;

(f) Exercise discretion to revise repayment obligations in certain cases, such as economic hardship or disability;

(g) Publicize the program; and

(h) Adopt necessary rules.

(4) The office is responsible for establishing and administering an appeals process that resolves appeals from borrowers within ninety days of receipt.

Sec. 5. RCW 28B.93.040 and 2022 c 206 s 5 are each amended to read as follows:

The office ((~~shall~~)) may contract with one or more state-based financial institutions regulated by either chapter 31.12 RCW or chapter 30A.04 RCW to provide loan origination and may contract with a third-party entity to provide loan servicing for the program. A third-party entity providing loan servicing shall comply with all of the requirements for student education loan servicers under chapter 31.04 RCW.

Sec. 6. RCW 28B.93.050 and 2022 c 206 s 6 are each amended to read as follows:

(1) The office shall collect data on the program in collaboration with the institutions of higher education. The data must include, but is not limited to:

(a) The number of eligible students who were awarded a student loan;

(b) The number of borrowers;

(c) The average borrowed annual and total balances;

(d) Borrower demographics;

(e) The institutions of higher education and educational fields of borrowers; ((~~and~~))

(f) Postgraduation employment data;

(g) Time to degree completion; and

(h) Repayment statistics, including:

(i) The number of borrowers in active repayment, deferment, delinquency, forbearance, and default;

(ii) The average time it took for borrowers to enter delinquency and default;

(iii) Demographic and educational data of borrowers enrolled in the income-based repayment plan option;

(iv) Demographic and educational data of borrowers in different repayment statuses, including delinquency and default; and

(v) Information about what happened to borrowers who defaulted.

(2) Beginning December 1, ((~~2026~~)) 2027, and in compliance with RCW 43.01.036, the office must submit an annual report on the data collected under subsection (1) of this section and any other relevant information regarding the program to the higher education committees of the legislature.

Sec. 7. RCW 28B.93.060 and 2022 c 206 s 7 are each amended to read as follows:

(1) The Washington student loan account is created in the ((~~custody of the state treasurer~~)) state treasury. All receipts from the Washington student loan program must be deposited in the account. Expenditures from the account may be used only for administration and the issuance of new student loans. ((~~Only the executive director of the Washington student achievement council or the executive director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, moneys~~)) Moneys in the account may be spent only after appropriation.

(2)(a) The legislature may appropriate no more than a total of $40,000,000 for the program during four consecutive fiscal years, beginning with the first fiscal year from which loans are issued from the account. In the fifth fiscal year following the fiscal year in which the first student loan was issued, the legislature may appropriate up to $10,000,000 for the program.

(b) The legislature may appropriate moneys from the account for the administrative and implementation costs of the program in the fiscal years prior to the first fiscal year in which loans are issued from the account.

Sec. 8. RCW 43.79A.040 and 2022 c 244 s 3, 2022 c 206 s 8, 2022 c 183 s 16, and 2022 c 162 s 6 are each reenacted and amended to read as follows:

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

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

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not

limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

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

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth

account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, ((~~the Washington student loan account,~~)) the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

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

Sec. 9. RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

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

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and

disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the Washington student loan account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move

ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent

fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

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

Sec. 10. RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

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

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

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

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river

basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the Washington student loan account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state

investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

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

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

NEW SECTION. **Sec. 11.** Section 9 of this act expires July 1, 2024.

NEW SECTION. **Sec. 12.** Section 10 of this act takes effect July 1, 2024.

Passed by the House April 18, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 390

[Engrossed Substitute House Bill 1838]

TRANSPORTATION REVENUE FORECASTS—ECONOMIC AND REVENUE FORECAST COUNCIL

AN ACT Relating to transferring the responsibilities for the transportation revenue forecast for the transportation budget to the economic and revenue forecast council; amending RCW 82.33.010, 82.33.040, and 43.88.020; reenacting and amending RCW 82.33.020; adding a new section to chapter 82.33 RCW; repealing RCW 43.88.125 and 43.88.122; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.33.010 and 2012 1st sp.s. c 8 s 2 are each amended to read as follows:

(1)(a) The economic and revenue forecast council is hereby created. The council shall consist of two individuals appointed by the governor, the state treasurer, and ((~~four individuals, one~~)) eight legislators, two of whom ((~~is~~)) shall be appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives.

(b) The chair of the council shall be selected from among the ((~~four~~)) eight caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ an economic ((~~and~~)), revenue, and transportation revenue forecast supervisor to supervise the preparation of all economic and revenue forecasts, transportation revenue forecasts under section 2 of this act, and the presentation of state budget outlooks. As used in this chapter, "supervisor" means the economic ((~~and~~)), revenue, and transportation revenue forecast supervisor. Approval by an affirmative vote of at least ((~~five~~)) seven members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(3) The economic and revenue forecast council shall oversee the preparation of and approve, by an affirmative vote of at least ((~~five~~)) seven members, the official, optimistic, and pessimistic state economic and revenue forecasts prepared under RCW 82.33.020. If the council is unable to approve a forecast before a date required in RCW 82.33.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(4) The economic and revenue forecast council shall oversee the preparation of and approve, by an affirmative vote of at least ((~~five~~)) seven members, the state budget outlook prepared under RCW 82.33.060. If the council is unable to approve a state budget outlook before a date required in RCW 82.33.060, the supervisor shall submit the outlook prepared under RCW 82.33.060 without approval and the outlook shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official economic and revenue forecast or the state budget outlook may request, and the supervisor shall provide, an alternative economic and revenue forecast or state budget outlook based on assumptions specified by the member

including, for purposes of the state budget outlook, revenues to and expenditures from additional funds.

(6) Members of the economic and revenue forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.33 RCW to read as follows:

(1)(a) The transportation economic and revenue forecast council is hereby created. The council shall consist of the following members:

(i) The director of the office of financial management;

(ii) The director of the department of licensing;

(iii) The state treasurer;

(iv) The chair and ranking member of the house transportation committee; and

(v) The chair and ranking member of the senate transportation committee.

(b) The chair of the council shall be selected from among the legislative members of the council identified in (a)(iv) and (v) of this subsection. The council may select such other officers as the members deem necessary.

(2) The council shall work with the economic, revenue, and transportation revenue forecast supervisor identified under RCW 82.33.010 to supervise the preparation of all transportation economic and revenue forecasts. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(3)(a) The transportation economic and revenue forecast council shall oversee the preparation of and approve, by an affirmative vote of at least five members, the official, optimistic, and pessimistic transportation economic and revenue forecasts prepared under RCW 82.33.020.

(b) If the council is unable to approve a forecast before a date required in RCW 82.33.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(4) A councilmember who does not cast an affirmative vote for approval of the official transportation economic and revenue forecast may request, and the supervisor shall provide, an alternative economic and revenue forecast based on assumptions specified by the member.

(5) Members of the transportation economic and revenue forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Sec. 3. RCW 82.33.020 and 2015 c 3 s 14 are each reenacted and amended to read as follows:

(1) Four times each year the supervisor must prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010:

(a) An official state economic and revenue forecast;

(b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and

(c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(2) Beginning with the September 2024, and four times each year thereafter, the supervisor must prepare, subject to the approval of the transportation economic and revenue forecast council created under section 2 of this act, an official transportation revenue forecast for the transportation budget. Additionally, the supervisor must prepare unofficial projections as deemed warranted by the supervisor, which may include optimistic and pessimistic assumptions. For purposes of this subsection, the transportation revenue forecast for the transportation budget includes, but is not limited to, transportation taxes, vehicle fees, drivers' fees, fares and tolls, and aircraft and vessel fees.

(3) The supervisor must submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.33.010, to the governor and the members of the ((~~committees on~~)) ways and means committee of the senate and appropriations committee of the house of representatives and the chairs of the committees on transportation of the senate and house of representatives, including one copy to the staff of each of the committees, on or before November 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June 27th, and September 27th. ((~~In fiscal year 2015, the March 20th forecast shall be submitted on or before February 20, 2015.~~)) All forecasts must be based on the most recent economic and revenue forecast council economic forecast. All forecasts must include both estimated receipts and estimated revenues in conformance with generally accepted accounting principles as provided by RCW 43.88.037. In odd-numbered years, the period covered by forecasts for the state general fund and related funds must cover the current fiscal biennium and the next ensuing fiscal biennium, and the period for the transportation related funds must cover the current fiscal biennium and the next two ensuing fiscal biennia. In even-numbered years, the period covered by the forecasts for the state general fund and related funds shall be current fiscal and the next two ensuing fiscal biennia, and the period for the transportation related funds shall be the current fiscal and the next two ensuing fiscal biennia.

(((~~(3)~~))) (4) All agencies of state government must provide to the supervisor immediate access to all information relating to economic and revenue forecasts. Revenue collection information must be available to the supervisor the first business day following the conclusion of each collection period.

(((~~(4)~~))) (5) The economic ((~~and~~)), revenue, and transportation revenue forecast supervisor and staff must ((~~colocate and~~)) share information, data, and files with the tax research section of the department of revenue and the department of licensing but may not duplicate the duties and functions of one another.

(((~~(5)~~))) (6) As part of its forecasts under subsection (1) of this section, the supervisor must provide estimated revenue from tuition fees as defined in RCW 28B.15.020.

(((~~(6)~~))) (7) The economic and revenue forecast council must, in consultation with the economic and revenue forecast work group created in RCW 82.33.040, review the existing economic and revenue forecast council revenue model, data, and methodologies and in light of recent economic changes, engage outside

experts if necessary, and recommend changes to the economic and revenue forecast council revenue forecasting process to increase confidence and promote accuracy in the revenue forecast. The recommendations are due by September 30, 2012, and every five years thereafter.

Sec. 4. RCW 82.33.040 and 1986 c 158 s 23 are each amended to read as follows:

(1) To promote the free flow of information and to promote legislative input in the preparation of forecasts, immediate access to all information relating to economic and revenue forecasts shall be available to the economic and revenue forecast work group, hereby created. Revenue collection information shall be available to the economic and revenue forecast work group the first business day following the ((~~conclusion of each collection period~~)) close of each fiscal month. The economic and revenue forecast work group shall consist of one staff member selected by the executive head or chairperson of each of the following agencies or committees:

(a) Department of revenue;

(b) Office of financial management;

(c) Legislative evaluation and accountability program committee;

(d) Ways and means committee of the senate; ((~~and~~))

(e) Ways and means committee of the house of representatives;

(f) Transportation committee of the senate;

(g) Transportation committee of the house of representatives;

(h) Washington state department of transportation; and

(i) Department of licensing.

(2) The economic and revenue forecast work group shall provide technical support to the economic and revenue forecast council. Meetings of the economic and revenue forecast work group may be called by any member of the group for the purpose of assisting the economic and revenue forecast council, reviewing the state economic and revenue forecasts, or reviewing monthly revenue collection data or for any other purpose which may assist the economic and revenue forecast council.

(3) Staff members from the Washington state department of transportation, department of licensing, transportation committee of the senate, and transportation committee of the house of representatives shall only provide technical support for the transportation revenue forecast for the transportation budget.

Sec. 5. RCW 43.88.020 and 2005 c 319 s 107 are each amended to read as follows:

(1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal statement, either written or provided on any electronic media or both, offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional, or other, and every department, division, board, and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated, or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means and transportation committees of the senate and house of representatives.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(18) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(19) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(20) "Estimated revenues" means estimates of revenue in the most recent official economic ((~~and~~)), revenue ((~~forecast~~)), and transportation revenue forecasts, prepared under RCW 82.33.020((~~, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast, that are prepared by the office of financial management in consultation with the transportation revenue forecast council~~)).

(21) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(22) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(23) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(24) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(25) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(26) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(27) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

(28) "Performance audit" has the same meaning as it is defined in RCW 44.28.005.

NEW SECTION. **Sec. 6.** The following acts or parts of acts are each repealed:

(1) RCW 43.88.125 (Study of transportation-related funds or accounts—Coordination of activities) and 2005 c 319 s 114, 1996 c 288 s 49, 1981 c 270 s 15, 1977 ex.s. c 235 s 6, 1975 1st ex.s. c 293 s 19, & 1971 ex.s. c 195 s 2; and

(2) RCW 43.88.122 (Transportation agency revenue forecasts—Variances) and 2000 2nd sp.s. c 4 s 14 & 1991 c 358 s 7.

NEW SECTION. **Sec. 7.** Section 6 of this act takes effect July 1, 2024.

Passed by the House April 18, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 391

[Substitute Senate Bill 5081]

VICTIM AND WITNESS NOTIFICATION PROGRAM—ELIGIBLE OFFENSES AND PUBLIC RECORDS ACT EXEMPTION

AN ACT Relating to victim notification; amending RCW 72.09.712, 72.09.710, and 72.09.714; and adding a new section to chapter 42.56 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 72.09.712 and 2022 c 82 s 1 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a custodial interference in the first degree offense as defined by RCW 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion into involuntary servitude offense as defined by RCW 9A.40.110, a criminal gang intimidation offense as defined by RCW 9A.46.120, an intimidating a public servant offense as defined by RCW 9A.76.180, an intimidation or harassment with an explosive offense as defined by RCW 70.74.275, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a custodial interference in the first degree offense as defined by RCW 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion into involuntary servitude offense as defined by RCW 9A.40.110, a criminal gang intimidation offense as defined by RCW 9A.46.120, an intimidating a public servant offense as defined by RCW 9A.76.180, an intimidation or harassment with an explosive offense as defined by RCW 70.74.275, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

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 inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a custodial interference in the first degree offense as defined by RCW 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion into involuntary servitude offense as defined by RCW 9A.40.110, a criminal gang intimidation offense as defined by RCW 9A.46.120, an intimidating a public servant offense as defined by RCW 9A.76.180, an intimidation or harassment with an explosive offense as defined by RCW 70.74.275, a vehicular

homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415, escapes from a correctional facility, the department of corrections 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 inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department 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.

(5) 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.

(6) The department of corrections 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.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) 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) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

(10) Information and records prepared, owned, used, or retained by the department of corrections that reveal any notification or request for notification regarding any specific individual, or that reveal the identity, location of, or any information submitted by a person who requests or is invited to enroll for notification under subsection (2) of this section, are exempt from public inspection and copying under chapter 42.56 RCW.

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

Information and records prepared, owned, used, or retained by the department of corrections that reveal any notification or request for notification regarding any specific individual, or that reveal the identity, location of, or any information submitted by a person who requests or is invited to enroll for notification under RCW 72.09.712(2) or 72.09.710(1), are exempt from public inspection and copying under this chapter.

Sec. 3. RCW 72.09.710 and 2008 c 231 s 26 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community custody, work release placement, furlough, or escape about a specific inmate convicted of a serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

(a) Any witnesses who testified against the inmate in any court proceedings involving the serious drug offense; and

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

Information regarding 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 inmate.

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections 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 inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department 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.

(3) If 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 department of corrections shall send the notices required by this section to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section, "serious drug offense" means an offense under RCW 69.50.401(2) (a) or (b) or 69.50.4011(2) (a) or (b).

(6) Information and records prepared, owned, used, or retained by the department of corrections that reveal any notification or request for notification regarding any specific individual, or that reveal the identity, location of, or any information submitted by a person who requests or is invited to enroll for notification under subsection (1) of this section, are exempt from public inspection and copying under chapter 42.56 RCW.

Sec. 4. RCW 72.09.714 and 2021 c 215 s 161 are each amended to read as follows:

The department of corrections shall provide the victims, witnesses, and next of kin in the case of a homicide and victims and witnesses involved in violent offense cases, sex offenses as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, ((~~or~~)) a felony harassment pursuant to RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined in RCW 10.99.020, an assault in the third degree offense under RCW 9A.36.031, an unlawful imprisonment offense under RCW 9A.40.040, a custodial interference in the first degree offense as defined by RCW 9A.40.060, a luring offense as defined by RCW 9A.40.090, a coercion into involuntary servitude offense as defined by RCW 9A.40.110, a criminal gang intimidation offense as defined by

RCW 9A.46.120, an intimidating a public servant offense as defined by RCW 9A.76.180, an intimidation or harassment with an explosive offense as defined by RCW 70.74.275, a vehicular homicide by disregard for the safety of others offense under RCW 46.61.520, or a controlled substances homicide offense under RCW 69.50.415, a statement of the rights of victims and witnesses to request and receive notification under RCW 72.09.712 and 72.09.716.

Passed by the Senate April 13, 2023.
Passed by the House April 5, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 392

[Substitute Senate Bill 5096]

EMPLOYEE OWNERSHIP PROGRAM

AN ACT Relating to expanding employee ownership; adding new sections to chapter 43.330 RCW; adding a new section to chapter 82.04 RCW; creating new sections; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

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

Employee ownership in companies provides numerous benefits to both businesses and workers across all industries. Research from the national center for employee ownership found that one such structure, employee stock ownership plans, had better workforce retention, benefits and retirement security, and firm performance than nonemployee stock ownership plans companies in the same industry. In addition, the Rutgers school of management and labor relations found that employee-owned companies outperformed nonemployee-owned companies in job retention, pay, and workplace health safety throughout the COVID-19 pandemic. At their core, employee ownership structures allow employees to gain ownership stake in a business, increasing their personal wealth without the risks related to starting or purchasing their own company.

States throughout the nation have moved to provide support for employee ownership structures. The Colorado employee ownership office has operated since 2019 to create a network of technical support and service providers considering employee ownership structures. Recently, both California and Massachusetts passed legislation to establish their own dedicated employee ownership support programs. Other states, such as Iowa, provide tax benefits and upfront costs to businesses interested in employee ownership.

Further, the federal government has recognized the benefit broad-based employee ownership structures provide to communities. The American rescue plan act included $10,000,000,000 for the state small business credit initiative. Through that act congress also directed the treasury department to allow state small business credit initiative funding to be used for transitions to employee ownership, when state small business credit initiative funding has not been historically available for business transactions.

The legislature desires to provide a dedicated program to educate businesses on employee ownership, assist both owners and workers in navigating available

resources, reduce barriers to transitioning to employee-owned structures, and provide tax support for businesses that transition to an employee ownership structure.

Therefore, it is the intent of the legislature to encourage the growth of employee ownership structures through this expanding employee ownership act.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington employee ownership program is created to support the efforts of businesses considering a sale to an employee ownership structure. The Washington employee ownership program must be administered by the department and overseen by the Washington employee ownership commission established in section 3 of this act.

(2)(a) In implementing the Washington employee ownership program, the director must:

(i) Create a network of technical support and service providers for businesses considering employee ownership structures;

(ii) Work with state agencies whose regulations and programs affect employee-owned businesses, and businesses with the potential to become employee owned, to enhance opportunities and reduce barriers;

(iii) Partner with relevant private, nonprofit, and public organizations including, but not limited to, professional and trade associations, financial institutions, unions, small business development centers, economic and workforce development organizations, and nonprofit entities to promote employee ownership benefits and succession models;

(iv) Develop and make available materials regarding employee ownership benefits and succession models;

(v) Provide a referral service to help qualified business owners find appropriate legal, financial, and technical employee ownership resources and services;

(vi) Work with the department of financial institutions and appropriate state, private, and nonprofit entities to shape and implement guidance on lending to broad-based employee ownership vehicles;

(vii) Create an inventory of employee-owned businesses in the state including employee stock ownership plans, worker cooperatives, and employee ownership trusts; and

(viii) Subject to the successful award of federal funding for this purpose, establish a revolving loan program to assist existing small businesses to finance a transition to employee ownership.

(b) Loans offered by the revolving loan program must be used to help facilitate the purchase of an interest in an employee stock ownership plan or worker-owned cooperative from the owner or owners of a qualified business, provided that:

(i) The transaction results in the employee stock ownership plan or worker cooperative holding a majority interest in the business, on a fully diluted basis; and

(ii) If used to assist in the purchase of an interest in an employee stock ownership plan, the employee stock ownership plan: (A) Has appointed an independent trustee; or (B) has, as a trustee, person, or entity, completed education on best practices for employee stock ownership plans.

(c) Loans financing the sale of an interest to a worker cooperative shall be extended based on repayment ability and shall not require a personal or entity guarantee. In meeting the requirement in (b) of this subsection, lending guidelines must be established for worker cooperatives not based on any personal or entity guarantees provided by the member owners or the selling business owner. These guidelines may include but are not limited to cash flow-based underwriting, character-based lending, and reliance on business assets.

(d) In order to support the revolving loan program, the director or the director's designee must apply for federal funding opportunities that:

(i) Support capitalization of state revolving loan programs; and

(ii) Support businesses that seek to transition to employee ownership.

(e) Amounts from the repayment of loans offered by the revolving loan program must be deposited in the employee ownership revolving loan program account established in section 6 of this act.

(3) The director or the director's designee may contract with consultants, agents, or advisors necessary to further the purposes of this section.

(4) By December 1st each year, the department must submit a report to the appropriate committees of the legislature on program activities and the number of employee-owned businesses and employee-owned trusts in the state, including recommendations for improvement and barriers for businesses considering employee ownership structures in Washington state. The first report must include rules and guidelines for the administration of the program, as established by the Washington employee ownership commission.

(5) For the purposes of this section:

(a) "Employee-owned business" means:

(i) An employee cooperative established under chapter 23.78, 23.86, 23.100, or 24.06 RCW that has at least 50 percent of its board of directors consisting of, and elected by, its employees; or

(ii) An entity owned in whole or in part by employee stock ownership plans as defined in 26 U.S.C. Sec. 4975(e)(7).

(b) "Qualified business" means a person subject to tax under Title 82 RCW, including but not limited to a C corporation, S corporation, limited liability company, partnership, limited liability partnership, sole proprietorship, or other similar pass-through entity, that is not owned in whole or in part by an employee ownership trust, that does not have an employee stock ownership plan, or that is not, in whole or in part, a worker-owned cooperative.

(6) Program support shall only be made available to businesses headquartered in Washington state. For the purposes of this section, "headquartered in Washington state" means that Washington state is its principal place of business or the state where it is incorporated.

(7) The director shall adopt rules as necessary to implement this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington employee ownership commission is hereby created to exercise the powers in developing and supervising the program created in section 2 of this act.

(2) The commission shall consist of:

(a) One member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member

from each of the two major caucuses of the senate to be appointed by the president of the senate. The initial term shall be two years; and

(b) The following members appointed by the governor:

(i) Five members who represent the private sector or professional organizations as follows:

(A) One representative of a worker cooperative business. The initial term shall be four years;

(B) One representative of an employee stock ownership plan business. The initial term shall be four years;

(C) One representative from a statewide business association. The initial term shall be two years;

(D) One economic development expert, from the private sector, with employee ownership knowledge and experience. The initial term shall be four years; and

(E) One representative from a financial institution with expertise in assisting businesses transitioning into an employee ownership structure. The initial term shall be two years; and

(ii) Two members who represent the public sector as follows:

(A) One economic development expert, from the public sector. The initial term shall be four years; and

(B) One representative from the department of commerce, who will chair the first meeting prior to the election of the chair. The initial term shall be four years.

(3) After the initial term of appointment, all members shall serve terms of four years and shall hold office until successors are appointed.

(4) The commission shall be led by a chair selected and voted on by members of the commission. The chair shall serve a one-year term but may serve more than one term if selected to do so by members of the commission.

(5) The commission shall develop, in consultation with the director, rules and guidelines to administer the program. Rules and guidelines for the administration of the program must be included in the first report to the legislature required in section 2 of this act.

(6) Before making any appointments to the commission, the governor must seek nominations from recognized organizations that represent the entities or interests identified in this section. The governor must select appointees to represent private sector industries from a list of three nominations provided by the trade associations representing the industry, unless no names are put forth by the trade associations.

(7) The commission shall conduct market research for the purposes of, or to support, a future application to the federal government for a program to assist in the purchase of an interest in an employee stock ownership plan qualifying under section 401 of the internal revenue code, worker cooperative, or related broad-based employee ownership vehicle.

(8) For purposes of this section, a "professional organization" includes an entity whose members are engaged in a particular lawful vocation, occupation, or field of activity of a specialized nature including, but not limited to, associations, boards, educational institutions, and nonprofit organizations.

NEW SECTION. **Sec. 4.** (1) This section is the tax preference performance statement for the tax preference contained in section 5, chapter . . ., Laws of

2023 (section 5 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to encourage business owners to create an employee stock ownership plan or employee ownership trust, or to convert to a worker-owned cooperative, that allows the company to share ownership with their employees without requiring employees to invest their own money.

(4) If a review finds that the number of businesses in this state offering employee stock ownership plans, employee ownership trusts, or ones that have converted to a worker-owned cooperative, has increased because of the tax credit under this act, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference.

(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 access and use any relevant data collected by the state.

NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Beginning July 1, 2024, in computing the tax imposed under this chapter, a credit is allowed for costs related to converting a qualifying business to a worker-owned cooperative, employee ownership trust, or an employee stock ownership plan, as provided in this section.

(2) The credit is equal to:

(a) Up to 50 percent of the conversion costs, not to exceed $25,000, incurred by a qualified business for converting the qualified business to a worker-owned cooperative or an employee ownership trust; or

(b) Up to 50 percent of the conversion costs, not to exceed $100,000, incurred by a qualified business for converting the qualified business to an employee stock ownership plan.

(3)(a) Credit under this section is earned, and claimed against taxes due under this chapter, for the tax reporting period in which the conversion to a worker-owned cooperative, employee ownership trust, or an employee stock ownership plan is complete, or subsequent tax reporting periods as provided in (c) of this subsection.

(b) The credit must not exceed the tax otherwise due under this chapter for the tax reporting period.

(c) Unused credit may be carried over and used in subsequent tax reporting periods, except that no credit may be claimed more than 12 months from the end of the tax reporting period in which the credit was earned.

(d) No refunds may be granted for credits under this section.

(4)(a) The total amount of credits authorized under this section may not exceed an annual statewide limit of $2,000,000.

(b) Credits must be authorized on a first-in-time basis.

(c) No credit may be earned, during any calendar year, on or after the last day of the calendar month immediately following the month the department has determined that $2,000,000 in credit has been earned.

(5)(a) The department may require persons claiming a credit under this section to provide appropriate documentation, in a manner as determined by the department, for the purposes of determining eligibility under this section.

(b) Every person claiming a credit under this section must preserve, for a period of five years, any documentation to substantiate the amount of credit claimed.

(6) For the purposes of this section:

(a) "Conversion costs" means professional services, including accounting, legal, and business advisory services, as detailed in the guidelines issued by the department, for: (i) A feasibility study or other preliminary assessments regarding a transition of a business to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust; or (ii) the transition of a business to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust.

(b) "Employee ownership trust" means an indirect form of employee ownership in which a trust holds a controlling stake in a qualified business and benefits all employees on an equal basis.

(c) "Employee stock ownership plan" has the same meaning as set forth in 26 U.S.C. Sec. 4975(e)(7), as of the effective date of this section.

(d) "Qualified business" means a person subject to tax under this chapter, including but not limited to a C corporation, S corporation, limited liability company, partnership, limited liability partnership, sole proprietorship, or other similar pass-through entity, that is not owned in whole or in part by an employee ownership trust, that does not have an employee stock ownership plan, or that is not, in whole or in part, a worker-owned cooperative, and that is approved by the department for the tax credit in this section.

(e) "Worker-owned cooperative" has the same meaning as set forth in 26 U.S.C. Sec. 1042(c)(2), as of the effective date of this section, or such subsequent dates as may be provided by rule by the department, consistent with the purposes of this section.

(7) Credits allowed under this section can be earned for tax reporting periods starting on or before June 30, 2029. No credits can be claimed on returns filed for tax periods starting on or after July 1, 2030.

(8) This section expires July 1, 2030.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.330 RCW to read as follows:

The employee ownership revolving loan program account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments of loans, private contributions, and all other sources must be deposited into the account. Expenditures from the account may be used only for the purposes of the Washington employee ownership program created in section 2 of this act. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 7.** Sections 4 and 5 of this act take effect July 1, 2024.

NEW SECTION. **Sec. 8.** This act may be known and cited as the expanding employee ownership act.

Passed by the Senate April 19, 2023.
Passed by the House April 17, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 393

[Engrossed Substitute Senate Bill 5173]

PROPERTY EXEMPT FROM EXECUTION—MODIFICATION

AN ACT Relating to property exempt from execution; amending RCW 6.15.010, 6.15.010, 51.32.040, 6.27.100, and 6.27.140; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 6.15.010 and 2021 c 50 s 2 are each amended to read as follows:

(1) Except as provided in RCW 6.15.050, the following personal property is exempt from execution, attachment, and garnishment:

(a) All wearing apparel of every individual and family, but not to exceed ((~~three thousand five hundred dollars~~)) $3,500 in value in furs, jewelry, and personal ornaments for any individual.

(b) All private libraries including electronic media, which includes audiovisual, entertainment, or reference media in digital or analogue format, of every individual, but not to exceed ((~~three thousand five hundred dollars~~)) $3,500 in value, and all family pictures and keepsakes.

(c) A cell phone, personal computer, and printer.

(d) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community, provided that each spouse is entitled to his or her own exemptions in this subsection (1)(d):

(i) ((~~The individual's or community's~~)) All household goods, appliances, furniture, and home and yard equipment, not to exceed ((~~six thousand five hundred dollars~~)) $6,500 in value for the individual ((~~or thirteen thousand dollars for the community, no single item to exceed seven hundred fifty dollars~~)), said amount to include provisions and fuel for ((~~the~~)) comfortable maintenance ((~~of the individual or community~~));

(ii) In a bankruptcy case, any other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed $10,000 in value. The value shall be determined as of the date the bankruptcy petition is filed;

(iii) Other than in a bankruptcy case as described in (d)(ii) of this subsection, other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed ((~~three thousand dollars~~)) $3,000 in value, ((~~of which not more than one thousand five hundred dollars in value may consist of cash, and~~)) of which not more than:

(A) For all debts except private student loan debt and consumer debt, ((~~five hundred dollars~~)) $500 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)((~~(ii)~~)) (iii)(A) shall be automatically protected and may not exceed ((~~five hundred dollars~~)) $500, regardless of the number of existing

separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(B) For all private student loan debt, ((~~two thousand five hundred dollars~~)) $2,500 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. $1,000 in value shall be automatically protected. The maximum exemption under this subsection (1)(d)(((~~ii~~))) (iii)(B) may not exceed ((~~two thousand five hundred dollars~~)) $2,500, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(C) For all consumer debt, ((~~two thousand dollars~~)) $2,000 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. $1,000 in value shall be automatically protected. The maximum exemption under this subsection (1)(d)(((~~ii~~))) (iii)(C) may not exceed ((~~two thousand dollars~~)) $2,000, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities;

(((~~iii) For an individual, a~~)) (iv) A motor vehicle ((~~used for personal transportation,~~)) not to exceed ((~~three thousand two hundred fifty dollars or for a community two motor vehicles used for personal transportation, not to exceed six thousand five hundred dollars~~)) $15,000 in aggregate value;

(((~~iv~~))) (v) Any past due, current, or future child support paid or owed to the debtor, which can be traced;

(((~~v~~))) (vi) All professionally prescribed health aids for the debtor or a dependent of the debtor; ((~~and~~

(~~vi~~))) (vii) To any individual, the right to or proceeds of a payment not to exceed twenty thousand dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; and

(viii) In a bankruptcy case, the right to or proceeds of personal injury of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent are free of the enforcement of the claims of creditors, except to the extent such claims are for the satisfaction of any liens or subrogation claims arising out of the claims for personal injury or death. The exemption under this subsection (1)(d)(((~~vi~~))) (viii) does not apply to the right of the state of Washington, or any agent or assignee of the state, as a lienholder or subrogee under RCW 43.20B.060.

(e) ((~~To each qualified individual, one of the following exemptions:~~

~~(i) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed ten thousand dollars in value;~~

~~(ii) To a physician, surgeon, attorney, member of the clergy, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed ten thousand dollars in value;~~

(~~iii~~))) To any ((~~other~~)) individual, the tools ((~~and~~)), instruments ((~~and~~)), materials, and supplies used to carry on his or her trade ((~~for the support of~~

~~himself or herself or family,~~)) not to exceed ((~~ten thousand dollars~~)) $15,000 in value.

(f) Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment, and contributions to any other qualified tuition program under 26 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and to a Coverdell education savings account, also known as an education individual retirement account, under 26 U.S.C. Sec. 530 of the internal revenue code of 1986, as amended, contributed more than two years prior to the date of a bankruptcy filing or court judgment.

(2) For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

(3) In the case of married persons, each spouse is entitled to the exemptions provided in this section, which may be combined with the other spouse's exemption in the same property or taken in different exempt property.

Sec. 2. RCW 6.15.010 and 2019 c 371 s 3 are each amended to read as follows:

(1) Except as provided in RCW 6.15.050, the following personal property is exempt from execution, attachment, and garnishment:

(a) All wearing apparel of every individual and family, but not to exceed ((~~three thousand five hundred dollars~~)) $3,500 in value in furs, jewelry, and personal ornaments for any individual.

(b) All private libraries including electronic media, which includes audiovisual, entertainment, or reference media in digital or analogue format, of every individual, but not to exceed ((~~three thousand five hundred dollars~~)) $3,500 in value, and all family pictures and keepsakes.

(c) A cell phone, personal computer, and printer.

(d) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community, provided that each spouse is entitled to his or her own exemptions in this subsection (1)(d):

(i) ((~~The individual's or community's~~)) All household goods, appliances, furniture, and home and yard equipment, not to exceed ((~~six thousand five hundred dollars~~)) $6,500 in value for the individual ((~~or thirteen thousand dollars for the community, no single item to exceed seven hundred fifty dollars~~)), said amount to include provisions and fuel for ((~~the~~)) comfortable maintenance ((~~of the individual or community~~));

(ii) In a bankruptcy case, any other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed $10,000 in value. The value shall be determined as of the date the bankruptcy petition is filed;

(iii) Other than in a bankruptcy case as described in (d)(ii) of this subsection, other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed ((~~three thousand dollars~~)) $3,000 in value, ((~~of which not more than one thousand five hundred dollars in value may consist of cash, and~~)) of which not more than:

(A) For all debts except private student loan debt and consumer debt, ((~~five hundred dollars~~)) $500 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this

subsection (1)(d)(((~~(ii)~~))) (iii)(A) may not exceed ((~~five hundred dollars~~)) $500, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(B) For all private student loan debt, ((~~two thousand five hundred dollars~~)) $2,500 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(((~~(ii)~~))) (iii)(B) may not exceed ((~~two thousand five hundred dollars~~)) $2,500, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(C) For all consumer debt, ((~~two thousand dollars~~)) $2,000 in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(((~~(ii)~~))) (iii)(C) may not exceed ((~~two thousand dollars~~)) $2,000, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities;

(((~~(iii) For an individual, a~~)) (iv) A motor vehicle ((~~used for personal transportation,~~)) not to exceed ((~~three thousand two hundred fifty dollars or for a community two motor vehicles used for personal transportation, not to exceed six thousand five hundred dollars~~)) $15,000 in aggregate value;

(((~~(iv)~~))) (v) Any past due, current, or future child support paid or owed to the debtor, which can be traced;

(((~~(v)~~))) (vi) All professionally prescribed health aids for the debtor or a dependent of the debtor; ((~~and~~

~~(vi)~~))) (vii) To any individual, the right to or proceeds of a payment not to exceed twenty thousand dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; and

(viii) In a bankruptcy case, the right to or proceeds of personal injury of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent are free of the enforcement of the claims of creditors, except to the extent such claims are for the satisfaction of any liens or subrogation claims arising out of the claims for personal injury or death. The exemption under this subsection (1)(d)(((~~(vi)~~))) (viii) does not apply to the right of the state of Washington, or any agent or assignee of the state, as a lienholder or subrogee under RCW 43.20B.060.

(e) ((~~To each qualified individual, one of the following exemptions:~~

~~(i) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed ten thousand dollars in value;~~

~~(ii) To a physician, surgeon, attorney, member of the clergy, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed ten thousand dollars in value;~~

~~(iii)~~)) To any ((~~other~~)) individual, the tools ((~~and~~)), instruments ((~~and~~)), materials, and supplies used to carry on his or her trade ((~~for the support of~~

~~himself or herself or family,~~)) not to exceed ((~~ten thousand dollars~~)) $15,000 in value.

(f) Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment, and contributions to any other qualified tuition program under 26 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and to a Coverdell education savings account, also known as an education individual retirement account, under 26 U.S.C. Sec. 530 of the internal revenue code of 1986, as amended, contributed more than two years prior to the date of a bankruptcy filing or court judgment.

(2) For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

(3) In the case of married persons, each spouse is entitled to the exemptions provided in this section, which may be combined with the other spouse's exemption in the same property or taken in different exempt property.

Sec. 3. RCW 51.32.040 and 2013 c 125 s 6 are each amended to read as follows:

(1) Except as provided in RCW 43.20B.720, 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under this title shall, ((~~before the issuance and delivery of the payment,~~)) be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a worker or other beneficiary and made in accordance with RCW 51.32.045. Payments retain their exempt status even after issuance.

(2)(a) If any worker suffers (i) a permanent partial injury and dies from some other cause than the accident which produced the injury before he or she receives payment of the award for the permanent partial injury or (ii) any other injury before he or she receives payment of any monthly installment covering any period of time before his or her death, the amount of the permanent partial disability award or the monthly payment, or both, shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the award or the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(b) If any worker suffers an injury and dies from it before he or she receives payment of any monthly installment covering time loss for any period of time before his or her death, the amount of the monthly payment shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(c) Any application for compensation under this subsection (2) shall be filed with the department or self-insuring employer within one year of the date of death. The department or self-insurer may satisfy its responsibilities under this

subsection (2) by sending any payment due in the name of the decedent and to the last known address of the decedent.

(3)(a) Any worker or beneficiary receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible for benefits under this title while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the worker or beneficiary would, except for the provisions of this subsection (3), otherwise be entitled to them.

(b) If any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she is entitled to payments under this title, subject to the requirements of chapter 72.65 RCW, unless his or her participation in the program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence.

(c) If the confined worker has any beneficiaries during the confinement period during which benefits are canceled under (a) or (b) of this subsection, they shall be paid directly the monthly benefits which would have been paid to the worker for himself or herself and the worker's beneficiaries had the worker not been confined.

(4) Any lump sum benefits to which a worker would otherwise be entitled but for the provisions of this section shall be paid on a monthly basis to his or her beneficiaries.

Sec. 4. RCW 6.27.100 and 2021 c 50 s 3 are each amended to read as follows:

(1) A writ issued for a continuing lien on earnings shall be substantially in the form provided in RCW 6.27.105. All other writs of garnishment shall be substantially in the following form, but:

(a) If the writ is issued under an order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for child support";

(b) If the writ is issued under an order or judgment for private student loan debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for private student loan debt";

(c) If the writ is issued under an order or judgment for consumer debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for consumer debt"; and

(d) If the writ is issued by an attorney, the writ shall be revised as indicated in subsection (2) of this section:

"IN THE . . . . . COURT
OF THE STATE OF WASHINGTON IN AND FOR
THE COUNTY OF . . . . . .

. . . . . ,
Plaintiff, No. . . . .
vs.

. . . . . ,
Defendant,

. . . . . ,
Garnishee

WRIT OF GARNISHMENT

THE STATE OF WASHINGTON TO: . . . . . .
Garnishee

AND TO: . . . . . .
Defendant

The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is $ . . . . ., consisting of:

Balance on Judgment or Amount of Claim	$ . . . .
Interest under Judgment from . . . . to	$ . . . .
Per Day Rate of Estimated Interest	$ . . . . per day
Taxable Costs and Attorneys' Fees	$ . . . .
Estimated Garnishment Costs:	
Filing and Ex Parte Fees	$ . . . .
Service and Affidavit Fees	$ . . . .
Postage and Costs of Certified Mail	$ . . . .
Answer Fee or Fees	$ . . . .
Garnishment Attorney Fee	$ . . . .
Other	$ . . . .

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court, by the attorney of record for the plaintiff, or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, at the addresses listed at the bottom of this writ.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

FOR ALL DEBTS EXCEPT PRIVATE STUDENT LOAN DEBT AND CONSUMER DEBT:

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(((~~(ii)~~))) (iii)(A) applies and the total of the amounts held in all of the defendant's accounts is less than or equal to $500, release all funds or property to the defendant and do not hold any amount. However, if you have documentation that the funds in the account are the community property of married persons or domestic partners, and if the total of the amounts held in all of the combined accounts of the married persons or domestic partners is less than or equal to $1,000, then release all funds or property to the defendant and do not hold any amount.

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(((~~(ii)~~))) (iii)(A) applies and the total of the amounts held in all of the defendant's accounts is in excess of $500, release at least $500, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant. However, if you have documentation that the funds in the account are the community property of married persons or domestic partners, and if the total of the amounts held in all of the combined accounts of the married persons or domestic partners is in excess of $1,000, release at least $1,000, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant.

FOR PRIVATE STUDENT LOAN DEBT AND CONSUMER DEBT:

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(((~~(ii)~~))) (iii) (B) or (C) applies and the total of the amounts held in all of the defendant's accounts is less than or equal to $1,000, release all funds or property to the defendant and do not hold any amount. However, if you have documentation that the funds in the account are the community property of married persons or domestic partners, and if the total of the amounts held in all of the combined accounts of the married persons or domestic partners is less than or equal to $2,000, then release all funds or property to the defendant and do not hold any amount.

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(((~~(ii)~~))) (iii) (B) or (C) applies and the total of the amounts held in all of the defendant's accounts is in excess of $1,000, release at least $1,000, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant. However, if you have documentation that the funds in the account are the community property of married persons or domestic partners, and if the total of the amounts held in all of the combined accounts of the married persons or domestic partners is in excess of $2,000, release at least $2,000, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS

WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable . . . . . ., Judge of the above-entitled Court, and the seal thereof, this . . . . day of . . . . . ., ... (year)

[Seal]

. . . . .	. . . . .
Attorney for Plaintiff (or Plaintiff, if no attorney)	Clerk of the Court
. . . . .	. . . . .
Address	By
. . . . .	. . . . .
Name of Defendant	Address"
. . . . .	
Address of Defendant	

(2) If an attorney issues the writ of garnishment, the final paragraph of the writ, containing the date, and the subscripted attorney and clerk provisions, shall be replaced with text in substantially the following form:

"This writ is issued by the undersigned attorney of record for plaintiff under the authority of chapter 6.27 of the Revised Code of Washington, and must be complied with in the same manner as a writ issued by the clerk of the court.

Dated this . . . . . .day of . . . . . ., ... (year)

. . . . .	
Attorney for Plaintiff	
. . . . .	. . . . .
Address	Address of the Clerk of the Court"
. . . . .	
Name of Defendant	
. . . . .	
Address of Defendant	

Sec. 5. RCW 6.27.140 and 2021 c 35 s 2 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

NOTICE OF GARNISHMENT
AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. A garnishment against wages or other earnings for child support may not be issued under chapter 6.27 RCW. If the garnishment is for private student loan debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings, which is eighty-five percent of the part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld, or fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable. If the garnishment is for consumer debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings, which is eighty percent of the part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld, or thirty-five times the state minimum hourly wage.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or any federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a

stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including, if the judgment is for private student loan debt, up to $2,500.00 in a bank account ((~~if you owe on private student loan debts;~~)), or for a marital community or domestic partnership up to $5,000.00 in a bank account; if the judgment is for other consumer debt, up to $2,000.00 in a bank account ((~~if you owe on consumer debts; or~~)), or for a marital community or domestic partnership up to $4,000.00 in a bank account; or, if the judgment is for any other debts, up to $500.00 in a bank account ((~~for all other debts~~)), or for a marital community or domestic partnership up to $1,000.00 in a bank account) and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2)(a) If the writ is to garnish funds or property held by a financial institution, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

[Caption to be filled in by judgment creditor
or plaintiff before mailing.]

Name of Court

. . . . . No . . . . . .
Plaintiff,

vs.

. . . . . EXEMPTION CLAIM

Defendant,

Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.

2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

[ ] The account contains payments from:

[ ] Temporary assistance for needy families, SSI, or other public assistance. I receive $ . . . . . monthly.
[ ] Social Security. I receive $ . . . . . monthly.
[ ] Veterans' Benefits. I receive $ . . . . . monthly.
[ ] Federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan. I receive $ . . . . . monthly.
[ ] Unemployment Compensation. I receive $ . . . . . monthly.
[ ] Child support. I receive $ . . . . . monthly.
[ ] Other. Explain . . . . . .

((~~[ ] $2,500 exemption for private student loan debts.~~
~~[ ] $2,000 exemption for consumer debts.~~
~~[ ] $500 exemption for all other debts.~~))

[ ] I/We claim the following exemptions:

[ ] Exemption for private student loan debts:

[ ] $2,500 for an individual; or

[ ] $5,000 for a marital community or domestic partnership.

[ ] Exemption for consumer debts:

[ ] $2,000 for an individual; or

[ ] $4,000 for a marital community or domestic partnership.

[ ] Exemption for all other debts:

[ ] $500 for an individual; or

[ ] $1,000 for a marital community or domestic partnership.

[ ] I declare under penalty of perjury under the laws of the State of Washington that I am a married person and that I wish to use the marital exemptions.

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

[ ] No money other than from above payments are in the account.

[ ] Moneys in addition to the above payments have been deposited in the account. Explain . . . . . .

. . . . . .

. . . . . .

OTHER PROPERTY:

[ ] Describe property . . . . . .

. . . . . .

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

. . . . .	. . . . .
Print: Your name	If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner
(((~~. . . . . .~~	~~. . . . . .~~
~~Your signature~~	~~Signature of husband, wife, or state registered domestic partner~~))
. . . . .	. . . . .

. . . .	. . . .
Address	Address (if different from yours)
. . . .	. . . .
Telephone number	Telephone number (if different from yours)

. . . .

Your signature

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

(b) If the writ is directed to an employer to garnish earnings, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font type:

[Caption to be filled in by judgment creditor
or plaintiff before mailing.]

. . . .
Name of Court

. . . . Plaintiff,	No . . . . . .
vs.	
. . . . Defendant,	EXEMPTION CLAIM
. . . . Garnishee Defendant	

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.

2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

[ ] Name and address of employer who is paying the benefits: . . . . . .

. . . . . .

IF EARNINGS ARE GARNISHED FOR PRIVATE STUDENT LOAN DEBT:

[ ] I claim maximum exemption.

IF EARNINGS ARE GARNISHED FOR CONSUMER DEBT:

[ ] I claim maximum exemption.

. . . . .	. . . . .
Print: Your name	If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner
((((.	. . . . .
~~Your signature~~	~~Signature of husband, wife, or state registered domestic partner~~))
. . . . .	. . . . .

. . . . .	. . . . .
Address	Address (if different from yours)
. . . . .	. . . . .
Telephone number	Telephone number (if different from yours)

. . . .

Your signature

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

(c) If the writ under (b) of this subsection is not a writ for the collection of private student loan debt, the exemption language pertaining to private student loan debt may be omitted.

(d) If the writ under (b) of this subsection is not a writ for the collection of consumer debt, the exemption language pertaining to consumer debt may be omitted.

NEW SECTION. **Sec. 6.** Sections 1 and 4 of this act expire July 1, 2025.

NEW SECTION. **Sec. 7.** Section 2 of this act takes effect July 1, 2025.

Passed by the Senate April 14, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 394

[Substitute Senate Bill 5182]

ELECTIONS—CANDIDATE FILING PERIODS

AN ACT Relating to procedures and deadlines for candidate filing; amending RCW 29A.24.050, 29A.24.040, 29A.24.070, 29A.24.081, 29A.24.091, 29A.24.131, and 29A.32.230; reenacting and amending RCW 29A.16.040; adding a new section to chapter 29A.24 RCW; and adding a new section to chapter 29A.32 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 29A.24.050 and 2011 c 349 s 7 are each amended to read as follows:

Except where otherwise provided by this title, declarations of candidacy for the following offices shall be filed ((~~during regular business hours~~)) between 8:00 a.m. and 5:00 p.m. with the filing officer beginning the first Monday ((~~two~~

~~weeks before Memorial day~~)) in May and ending the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices.

Sec. 2. RCW 29A.24.040 and 2011 c 349 s 6 are each amended to read as follows:

A candidate may file ((~~his or her~~)) a declaration of candidacy for an office by electronic means on a system specifically designed and authorized by a filing officer to accept filings.

(1) Filings that are received electronically must capture all information specified in RCW 29A.24.031 (1) through (4).

(2) Electronic filing may begin at ((~~9:00~~)) 8:00 a.m. the first day of the filing period and continue through ((~~4:00~~)) 5:00 p.m. the last day of the filing period.

Sec. 3. RCW 29A.24.070 and 2009 c 106 s 1 are each amended to read as follows:

(1) Declarations of candidacy shall be filed with the following filing officers:

(((~~(1)~~))) (a) The secretary of state for declarations of candidacy for statewide offices, United States senate, ((~~and~~)) United States house of representatives, Washington state legislature, court of appeals, and superior court. The secretary of state shall establish contingency plans, consistent with this subsection, to support candidate filing for state legislative candidates who have not yet filed their declaration of candidacy in the case that a localized or system-wide internet outage or a disruption to the secretary of state's candidate filing website occurs during the two hours immediately preceding the filing deadline. The secretary of state shall immediately process all filings received pursuant to the contingency plan;

(((~~(2) The secretary of state for declarations of candidacy for the state legislature, the court of appeals, and the superior court when the candidate is seeking office in a district comprised of voters from two or more counties;~~

~~(3)~~))) (b) The county auditor for all other offices. For any nonpartisan office, other than judicial offices and school director in joint districts, where voters from a district comprising more than one county vote upon the candidates, a declaration of candidacy shall be filed with the county auditor of the county in which a majority of the registered voters of the district reside. For school directors in joint school districts, the declaration of candidacy shall be filed with the county auditor of the county designated by the superintendent of public instruction as the county to which the joint school district is considered as belonging under RCW 28A.323.040.

(2) Each official with whom declarations of candidacy are filed under this section, within one business day following the closing of the applicable filing period, shall transmit to the public disclosure commission the information required in RCW 29A.24.031 (1) through (4) for each declaration of candidacy

filed ((~~in his or her~~)) with the official's office during such filing period or a list containing the name of each candidate who files such a declaration ((~~in his or her~~)) with the official's office during such filing period together with a precise identification of the position sought by each such candidate and the date on which each such declaration was filed. Such official, within three days following ((~~his or her~~)) the receipt of any letter withdrawing a person's name as a candidate, shall also forward a copy of such withdrawal letter to the public disclosure commission.

Sec. 4. RCW 29A.24.081 and 2011 c 10 s 27 are each amended to read as follows:

Any candidate may mail ((~~his or her~~)) a declaration of candidacy for an office to the filing officer. Such declarations of candidacy shall be processed by the filing officer in the following manner:

(1) Any declaration received by the filing officer by mail before the tenth business day immediately preceding the first day for candidates to file for office shall be returned to the candidate submitting it, together with a notification that the declaration of candidacy was received too early to be processed. The candidate shall then be permitted to resubmit ((~~his or her~~)) the candidate's declaration of candidacy during the filing period.

(2) Any properly executed declaration of candidacy received by mail on or after the tenth business day immediately preceding the first day for candidates to file for office and before ((~~the close of business~~)) 5:00 p.m. on the last day of the filing period shall be included with filings made in person during the filing period.

(3) Any declaration of candidacy received by the filing officer after ((~~the close of business~~)) 5:00 p.m. on the last day for candidates to file for office shall be rejected and returned to the candidate attempting to file it.

Sec. 5. RCW 29A.24.091 and 2018 c 187 s 1 are each amended to read as follows:

(1) A filing fee of ten dollars shall accompany the declaration of candidacy for any office with a fixed annual salary of one thousand dollars or less. A filing fee equal to one percent of the annual salary of the office at the time of filing shall accompany the declaration of candidacy for any office with a fixed annual salary of more than one thousand dollars per annum. No filing fee need accompany a declaration of candidacy for precinct committee officer or any office for which compensation is on a per diem or per meeting attended basis, or any declaration of candidacy for a write-in candidate filed after the close of filing and more than eighteen days prior to a primary or election.

(2) A filing fee of twenty-five dollars shall accompany the declaration of candidacy for write-in candidates for any office with a fixed annual salary of one thousand dollars or less if filed eighteen days or less prior to a primary or election.

(3) A filing fee equal to one percent of the annual salary of the office at the time of filing shall accompany a declaration of candidacy for write-in candidates for any office with a fixed annual salary of more than one thousand dollars per annum if filed eighteen days or less prior to a primary or election.

(4) A candidate who lacks sufficient assets or income at the time of filing to pay the filing fee required by this section shall submit with ((~~his or her~~)) the

candidate's declaration of candidacy a filing fee petition. The petition shall contain not less than a number of signatures of registered voters equal to the number of dollars of the filing fee. The signatures shall be of voters registered to vote within the jurisdiction of the office for which the candidate is filing.

((~~When the candidacy is for:~~

~~(a) A statewide office, the United States senate, or the United States house of representatives, the fee shall be paid to the secretary of state;~~

~~(b) A legislative or judicial office that includes territory from more than one county, the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district;~~

~~(c) A legislative or judicial office that includes territory from only one county, the fee shall be paid to the county auditor;~~

~~(d) A city or town office, the fee shall be paid to the county auditor who shall transmit it to the city or town clerk for deposit in the city or town treasury.~~))

NEW SECTION. **Sec. 6.** A new section is added to chapter 29A.24 RCW to read as follows:

Fees paid when filing for office must be collected by the filing officer and distributed as follows:

(1) When the candidacy is for a statewide office, the United States senate, the United States house of representatives, or the state supreme court, the fee shall be retained by the secretary of state;

(2) When the candidacy is for a Washington state legislative, state court of appeals, or a superior court judicial office, the fees shall be distributed to the office of the county auditor or auditors whose counties comprise the district. When the district includes multiple counties, the distribution must be an equal division between the counties comprising the district;

(3) When the candidacy is for a city or town office, the county auditor shall transmit fees to the city or town clerk for deposit in the city or town treasury; and

(4) When the candidacy is for any other office, the fees shall be retained by the office of the filing officer.

Sec. 7. RCW 29A.24.131 and 2011 c 349 s 8 are each amended to read as follows:

A candidate may withdraw ((~~his or her~~)) the candidate's declaration of candidacy at any time before ((~~the close of business~~)) 5:00 p.m. on the Monday following the last day for candidates to file under RCW 29A.24.050 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that ((~~his or her~~)) the candidate's name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under this title. No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time ((~~he or she~~)) the candidate files.

Sec. 8. RCW 29A.16.040 and 2011 c 349 s 5 and 2011 c 10 s 26 are each reenacted and amended to read as follows:

The county legislative authority of each county in the state shall divide the county into election precincts and establish the boundaries of the precincts.

(1) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored.

Except as permitted under subsection (3) of this section, no precinct changes may be made during the period starting ((~~fourteen~~)) seven days prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(2) The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The number may be less than the number established by law, but in no case may the number exceed one thousand five hundred active registered voters.

(3) The county auditor shall temporarily adjust precinct boundaries when a city or town annexes unincorporated territory to the city or town, or whenever unincorporated territory is incorporated as a city or town. The adjustment must be made as soon as possible after the approval of the annexation or incorporation. The temporary adjustment must be limited to the minimum changes necessary to accommodate the addition of the territory to the city or town, or to establish the eligible voters within the boundaries of the new city or town, and remains in effect only until precinct boundary modifications reflecting the annexation or incorporation are adopted by the county legislative authority.

NEW SECTION. **Sec. 9.** A new section is added to chapter 29A.32 RCW to read as follows:

The secretary may, by rule, set a deadline for submission of candidate statements and photographs for inclusion in the statewide voters' pamphlet. The deadline for submission of candidate statements and photographs must be not sooner than 11 days immediately following the deadline for filing declarations of candidacy under RCW 29A.24.050.

Sec. 10. RCW 29A.32.230 and 2003 c 111 s 815 are each amended to read as follows:

The county auditor or, if applicable, the city clerk of a first-class or code city shall, in consultation with the participating jurisdictions, adopt and publish administrative rules necessary to facilitate the provisions of any ordinance authorizing production of a local voters' pamphlet. Any amendment to such a rule shall also be adopted and published. Copies of the rules shall identify the date they were adopted or last amended and shall be made available to any person upon request. One copy of the rules adopted by a county auditor and one copy of any amended rules shall be submitted to the county legislative authority. One copy of the rules adopted by a city clerk and one copy of any amended rules shall be submitted to the city legislative authority. These rules shall include but not be limited to the following:

(1) Deadlines for decisions by cities, towns, or special taxing districts on being included in the pamphlet;

(2) Limits on the length and deadlines for submission of arguments for and against each measure;

(3) The basis for rejection of any explanatory or candidates' statement or argument deemed to be libelous or otherwise inappropriate. Any statements by a candidate shall be limited to those about the candidate himself or herself;

(4) Limits on the length ((~~and deadlines for submission~~)) of candidates' statements;

(5) Deadlines for submission of candidates' statements not sooner than 11 days following the deadline for filing declarations of candidacy under RCW 29A.24.050;

(6) An appeal process in the case of the rejection of any statement or argument.

Passed by the Senate April 14, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 395

[Second Substitute Senate Bill 5268]

PUBLIC WORKS PROCUREMENT—VARIOUS PROVISIONS

AN ACT Relating to equity and efficiencies in public works procurement including modifying small works roster requirements; amending RCW 39.04.010, 39.19.030, 39.10.200, 39.10.210, 39.10.220, 39.10.230, 39.10.240, 39.10.330, 39.10.360, 39.10.380, 39.10.385, 39.10.908, 28A.335.190, 28B.10.350, 28B.50.330, 35.22.620, 35.23.352, 35.61.135, 35.82.076, 36.32.235, 36.32.250, 36.77.075, 39.04.200, 39.04.380, 39.12.040, 52.14.110, 53.08.120, 54.04.070, 57.08.050, 70.44.140, 87.03.436, and 43.131.408; adding new sections to chapter 39.04 RCW; creating a new section; repealing RCW 39.04.155 and 39.04.156; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds the need to increase equity and efficiencies in public works procurement. The legislature further finds that small, minority, women, and veteran-owned businesses are essential to a robust and high-functioning economy, which provides high quality living wage jobs throughout the state. The legislature further finds that public works contracting agencies need a streamlined and effective method for delivering small public works projects while protecting worker rights. Therefore, the legislature intends to provide a small business definition, best practices to be included in inclusion plans, and to update and revise the small and limited works roster process to increase administrative efficiency, to encourage greater participation and utilization by small, minority, women, and veteran-owned businesses, and continue to protect the rights of workers engaging in public works projects.

Sec. 2. RCW 39.04.010 and 2008 c 130 s 16 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorized local government" means a political subdivision of the state, school district, or special purpose district with public works authority.

(2) "Award" means the formal decision by the state or municipality notifying a responsible bidder with the lowest responsive bid of the state's or municipality's acceptance of the bid and intent to enter into a contract with the bidder.

((~~(2)~~)) (3) "Contract" means a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid, or a contract awarded under the small works roster process in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

(((~~(3)~~))) (4) "Municipality" means every city, county, town, port district, district, or other public agency authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts, or other districts authorized by law for the reclamation or development of waste or undeveloped lands.

(((~~(4)~~))) (5) "Public work" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with chapter 39.12 RCW. "Public work" does not include work, construction, alteration, repair, or improvement performed under contracts entered into under RCW 36.102.060(4) or under development agreements entered into under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

(((~~(5)~~))) (6) "Responsible bidder" means a contractor who meets the criteria in RCW 39.04.350.

(((~~(6)~~))) (7) "Small business" means a business meeting certification criteria for size, ownership, control, and personal net worth adopted by the office of minority and women's business enterprises in accordance with RCW 39.19.030.

(8) "State" means the state of Washington and all departments, supervisors, commissioners, and agencies of the state.

(9) "State agency" means the department of enterprise services, the state parks and recreation commission, the department of natural resources, the department of fish and wildlife, the department of transportation, any institution of higher education as defined under RCW 28B.10.016, and any other state agency delegated authority by the department of enterprise services to engage in construction, building, renovation, remodeling, alteration, improvement, or repair activities.

Sec. 3. RCW 39.19.030 and 1996 c 69 s 5 are each amended to read as follows:

There is hereby created the office of minority and women's business enterprises. The governor shall appoint a director for the office, subject to confirmation by the senate. The director may employ a deputy director and a confidential secretary, both of which shall be exempt under chapter 41.06 RCW, and such staff as are necessary to carry out the purposes of this chapter.

The office shall consult with the minority and women's business enterprises advisory committee to:

(1) Develop, plan, and implement programs to provide an opportunity for participation by qualified minority and women-owned and controlled businesses in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector;

(2) Develop a comprehensive plan insuring that qualified minority and women-owned and controlled businesses are provided an opportunity to participate in public contracts for public works and goods and services;

(3) Identify barriers to equal participation by qualified minority and women-owned and controlled businesses in all state agency and educational institution contracts;

(4) Establish annual overall goals for participation by qualified minority and women-owned and controlled businesses for each state agency and educational institution to be administered on a contract-by-contract basis or on a class-of-contracts basis;

(5) Develop and maintain a central minority and women's business enterprise certification list for all state agencies and educational institutions. No business is entitled to certification under this chapter unless it meets the definition of small business concern as established by the office. All applications for certification under this chapter shall be sworn under oath;

(6) Develop, implement, and operate a system of monitoring compliance with this chapter;

(7) Adopt rules under chapter 34.05 RCW, the Administrative Procedure Act, governing: (a) Establishment of agency goals; (b) development and maintenance of a central minority and women's business enterprise certification program and a public works small business certification program, including a definition of "small business concern" which shall be consistent with the small business requirements defined under section 3 of the Small Business Act, 15 U.S.C. Sec. 632, and its implementing regulations as guidance; (c) procedures for monitoring and enforcing compliance with goals, regulations, contract provisions, and this chapter; (d) utilization of standard clauses by state agencies and educational institutions, as specified in RCW 39.19.050; and (e) determination of an agency's or educational institution's goal attainment consistent with the limitations of RCW 39.19.075;

(8) Submit an annual report to the governor and the legislature outlining the progress in implementing this chapter;

(9) Investigate complaints of violations of this chapter with the assistance of the involved agency or educational institution; and

(10) Cooperate and act jointly or by division of labor with the United States or other states, and with political subdivisions of the state of Washington and their respective minority, socially and economically disadvantaged and women business enterprise programs to carry out the purposes of this chapter. However, the power which may be exercised by the office under this subsection permits investigation and imposition of sanctions only if the investigation relates to a possible violation of chapter 39.19 RCW, and not to violation of local ordinances, rules, regulations, however denominated, adopted by political subdivisions of the state.

Sec. 4. RCW 39.10.200 and 2010 1st sp.s. c 21 s 2 are each amended to read as follows:

The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria. In addition, alternative public works contracting can provide increased access to contracting opportunities for small, minority, women, and veteran-owned businesses. The purpose of this chapter is to

authorize the use of certain supplemental alternative public works contracting procedures, to prescribe appropriate requirements to ensure that such contracting procedures serve the public interest and advance contracting opportunities for small, minority, women, and veteran-owned businesses to the extent permitted by law, and to establish a process for evaluation of such contracting procedures. It is the intent of the legislature to establish that, unless otherwise specifically provided for in law, public bodies may use only those alternative public works contracting procedures specifically authorized in this chapter, subject to the requirements of this chapter. It is also the intent of the legislature that inclusion plans required by this chapter may include, with public body approval and to the extent permitted by law, features to improve access to opportunities, including outreach and mentorship, capital including, modified payment provisions, training, and other features intended to maximize the participation and success of small, minority, women, and veteran-owned businesses.

Sec. 5. RCW 39.10.210 and 2021 c 230 s 1 are each amended to read as follows:

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

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

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

(3) "Budget contingencies" means contingencies established by a public body outside of the design-build or general contractor/construction manager contract for payment of project costs that are not the responsibility of the design-builder or general contractor/construction manager under the respective contract.

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

(5) "Coefficient" means the job order contractor's competitively bid numerical factor applied to the public body's prices as published in the unit price book.

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

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

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

~~(9)~~)) "General contractor/construction manager" means a firm with which a public body has selected to provide services during the design phase and negotiated a maximum allowable construction cost to act as construction manager and general contractor during the construction phase.

(((~~(10)~~))) (9) "Heavy civil construction project" means a civil engineering project, the predominant features of which are infrastructure improvements.

(((~~(11)~~))) (10) "Job order contract" means a contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which

provides for the use of work orders for public works as defined in RCW 39.04.010.

(((~~(12)~~))) (11) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

(((~~(13)~~))) (12) "Maximum allowable construction cost" means the maximum cost of the work to construct the project including a percentage for risk contingency, negotiated support services, and approved change orders.

(((~~(14)~~))) (13) "Negotiated support services" means items a general contractor would normally manage or perform on a construction project including, but not limited to surveying, hoisting, safety enforcement, provision of toilet facilities, temporary heat, cleanup, and trash removal, and that are negotiated as part of the maximum allowable construction cost.

(((~~(15)~~))) (14) "Percent fee" means the percentage amount to be earned by the general contractor/construction manager as overhead and profit.

(((~~(16)~~))) (15) "Price-related factor" means an evaluation factor that impacts costs which may include, but is not limited to overhead and profit, lump sum or guaranteed maximum price for the entire or a portion of the project, operating costs, or other similar factors that may apply to the project.

(((~~(17)~~))) (16) "Public body" means any general or special purpose government in the state of Washington, including but not limited to state agencies, institutions of higher education, counties, cities, towns, ports, school districts, and special purpose districts.

(((~~(18)~~))) (17) "Public works project" means any work for a public body within the definition of "public work" in RCW 39.04.010.

(((~~(19)~~))) (18) "Risk contingency" means a contingency for use as defined in the contract and established as part of the maximum allowable construction cost for unexpected cost of work items that have not otherwise been included or addressed in the maximum allowable construction cost.

(((~~(20)~~))) (19) "Small business ((~~entity~~))" means a small business as defined in RCW ((~~39.26.010~~)) 39.04.010.

(((~~(21)~~))) (20) "Total contract cost" means the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, and the percent fee on the negotiated maximum allowable construction cost.

(((~~(22)~~))) (21) "Total project cost" means the cost of the project less financing and land acquisition costs.

(((~~(23)~~))) (22) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor.

(((~~(24)~~))) (23) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

Sec. 6. RCW 39.10.220 and 2021 c 230 s 2 are each amended to read as follows:

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

(2) Members of the board identified in (a) through (f) of this subsection must be knowledgeable or have experience in public works procurement and

contracting, including state and federal laws, rules, and best practices concerning public contracting for small, minority, women, and veteran-owned businesses ((~~and small businesses~~)), and are appointed as follows:

(a) Two representatives from construction general contracting; one representative from the architectural profession; one representative from the engineering profession; two representatives from construction specialty subcontracting; two representatives from construction trades labor organizations; one representative from the office of minority and women's business enterprises; one representative from a higher education institution; one representative from the department of enterprise services; one individual representing Washington cities; two representatives from private industry; one individual from the private sector representing the interests of the ((~~disadvantaged business enterprises~~)) small, minority, women, or veteran-owned businesses community; and one representative of a domestic insurer authorized to write surety bonds for contractors in Washington state, each appointed by the governor. The board must reflect the gender, racial, ethnic, and geographic diversity of the state, including the interests of persons with disabilities. If a vacancy occurs, the governor shall fill the vacancy for the unexpired term;

(b) One member representing counties, selected by the Washington state association of counties;

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

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

(e) One member representing school districts, selected by the Washington state school directors' association;

(f) One member representing transit, selected by the Washington state transit association; and

(g) Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives, and two members of the senate, one from each major caucus, appointed by the president of the senate. Legislative members are nonvoting.

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

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

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

(6) Vacancies are filled in the same manner as appointed. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

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

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

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

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

(11) The board shall provide opportunities for persons and entities not represented on the board to participate and provide insights on matters of interest to the board, particularly with respect to the experiences of small, minority, women, and veteran-owned businesses ((~~and small businesses~~)).

Sec. 7. RCW 39.10.230 and 2021 c 230 s 3 are each amended to read as follows:

The board has the following powers and duties:

(1) Develop and recommend to the legislature policies to encourage competition and to further enhance the quality, efficiency, and accountability of and equitable participation by ((~~disadvantaged business enterprises~~)) small, minority, women, or veteran-owned businesses in capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding best practices, expansion, continuation, elimination, or modification of the alternative public works contracting methods, including specific recommendations for reducing barriers for and increasing participation by ((~~disadvantaged business enterprises~~)) small, minority, women, or veteran-owned businesses;

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

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

(4) Appoint members of committees; and

(5) Direct the department of enterprise services to collect quantitative and qualitative data on alternative public works contracting procedures to support the board's work in meeting the purpose established in RCW 39.10.220(1).

Sec. 8. RCW 39.10.240 and 2021 c 230 s 4 are each amended to read as follows:

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

(2) The board shall, by a majority vote of the board, appoint persons to the committee who are knowledgeable in the use of the design-build and general contractor/construction manager contracting procedures. Appointments must represent a balance of public and private sector representatives of the board listed in RCW 39.10.220, and must include at least one member representing the interests of ((~~disadvantaged business enterprises~~)) small, minority, women, or veteran-owned businesses.

(a) Each member of the committee shall be appointed for a term of three years. However, for initial appointments, the board shall stagger the appointment of committee members so that the first members are appointed to serve terms of

one, two, or three years from the date of appointment. Appointees may be reappointed to serve more than one term.

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

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

(3) The chair of the committee, in consultation with the vice chair, may appoint one or more panels of at least six committee members to carry out the duties of the committee. Each panel shall have balanced representation of the private and public sector representatives serving on the committee, and shall include a member representing the interests of ((~~disadvantaged business enterprises~~)) small, minority, women, or veteran-owned businesses.

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

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

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

Sec. 9. RCW 39.10.330 and 2021 c 230 s 7 are each amended to read as follows:

(1) Contracts for design-build services shall be awarded through a competitive process using public solicitation of proposals for design-build services. At a minimum, the public body shall publish at least once in a legal newspaper of general circulation published in, or as near as possible to, that part of the county in which the public work will be done, a notice of its request for qualifications from proposers for design-build services, and the availability and location of the request for proposal documents. The public body is encouraged to post the design-build opportunity in additional areas, such as websites for business associations or the office of minority and women's business enterprises, to further publicize the opportunity for qualified design-build teams. The request for qualifications documents shall include:

(a) A description of the project including the estimated design-build contract value and the intended use of the project;

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

(c) A description of the qualifications to be required of the proposer;

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

(i) Evaluation factors for qualifications shall include technical qualifications, such as specialized experience and technical competence of the firms and the key design and construction personnel; capacity to perform; the proposer's past performance in utilization of ((~~disadvantaged business enterprises~~)) business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs, to the extent permitted by law; ability to provide a performance and payment bond for the project; and other appropriate

factors. ((~~Evaluation factors must also include, but are not limited to, the proposer's past performance in utilization of small business entities.~~)) Cost or price-related factors are not permitted in the request for qualifications phase;

(ii) Evaluation factors for finalists' proposals shall include the management plan to meet time and budget requirements and one or more price-related factors. Evaluation factors must include a proposer's inclusion plan for ((~~small business entities and disadvantaged business enterprises~~)) business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs as subconsultants, subcontractors, and suppliers for the project, to the extent permitted by law. Evaluation factors may also include, but not be limited to, the technical approach or the design concept;

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

(f) The proposed contract;

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

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

(i) Other information relevant to the project.

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

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

(4) Upon selection of the finalists, the public body shall issue a request for proposals to the finalists. The request for proposal documents shall include:

(a) Any specific forms to be used by the finalists; and

(b) Submission of a summary of the finalist's accident prevention program and an overview of its implementation.

(5) The public body shall establish an evaluation committee to evaluate the proposals submitted by the finalists. The finalists' proposals shall be evaluated and scored based solely on the factors, weighting, and process identified in the request for qualifications, the request for proposals, and in any addenda published by the public body. Public bodies may request best and final proposals from finalists. The public body may initiate negotiations with the finalist submitting the highest scored proposal. If the public body is unable to execute a

contract with the finalist submitting the highest scored proposal, negotiations with that finalist may be suspended or terminated and the public body may proceed to negotiate with the next highest scored finalist. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

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

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

(8) Any contract must require the firm awarded the contract to track and report to the public body and to the office of minority and women's business enterprises its utilization of the office of minority and women's business enterprises certified businesses and veteran certified businesses.

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

Sec. 10. RCW 39.10.360 and 2021 c 230 s 9 are each amended to read as follows:

(1) Public bodies should select general contractor/construction managers at a time in the project when the general contractor/construction manager's participation provides value.

(2) Contracts for the services of a general contractor/ construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. At a minimum, the public body shall publish at least once in a legal newspaper of general circulation published in, or as near as possible to, that part of the county in which the public work will be performed, a notice of its request for qualifications from proposers for general contractor/construction manager services, and the availability and location of the request for proposal documents. The public body is encouraged to post the general contractor/construction manager opportunity in additional areas, such as websites for business associations or the office of minority and women's business enterprises, to further publicize the opportunity for qualified general contractors/construction managers. The public solicitation of proposals shall include:

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

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

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

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

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

(f) The estimated maximum allowable construction cost; and

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

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

(a) Experience and technical competence of key personnel;

(b) The proposer's past performance with negotiated or similarly complex projects;

(c) The proposer's capacity to perform the work;

(d) The scope of work the firm proposes to self-perform and its past performance of that scope of work;

(e) The proposer's approach to executing the project, including ability to meet the project time and budget requirements; and

(f) The proposer's past performance in utilization of ((~~disadvantaged business enterprises and small business entities~~)) business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs and the inclusion plan for ((~~small business entities and disadvantaged business enterprises~~)) business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs as subconsultants, subcontractors, and suppliers for the project, to the extent permitted by law.

(4) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, at the time specified by the public body, these finalists shall submit final proposals, which must include sealed bids for the percent fee on the estimated maximum allowable construction cost and which may include other price-related factors identified in the request for proposal. In no event shall a price-related factor include a request for overall project budget, estimate, or bid. The public body shall establish a time and place for the opening of sealed bids. At the time and place named, these bids must be publicly opened and read and the public body shall make all previous scoring available to the public. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals. A public body shall not evaluate or disqualify a proposal based on the terms of a collective bargaining agreement.

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

The protestor must submit its protest in accordance with the published protest procedures.

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

Sec. 11. RCW 39.10.380 and 2021 c 230 s 11 are each amended to read as follows:

(1) All subcontract work and equipment and material purchases shall be competitively bid with public bid openings and require the public solicitation of the bid documents. At a minimum, the general contractor/construction manager shall publish at least once in a legal newspaper of general circulation published in, or as near as possible to, that part of the county in which the subcontract work will be performed, a notice of its request for bid, and the availability and location of the bid documents. The general contractor/construction manager is encouraged to post the subcontract opportunity in additional areas beyond the legal newspaper as required by this subsection, such as websites for business associations, the office of minority and women's business enterprises, and other locations and mediums that will further publicize the opportunity for qualified subcontractors. Subcontract bid packages and equipment and materials purchases shall be awarded to the responsible bidder submitting the lowest responsive bid. In preparing subcontract bid packages, the general contractor/construction manager shall not be required to violate or waive terms of a collective bargaining agreement. Individual bid packages are to be prepared with trades separated in the manner consistent with industry practice to maximize participation and competition across all trades. Bundling of trades not normally combined into one bid package is not allowed without justification and specific approval by the public body. Bid packages must be prepared to reduce barriers for and increase participation by ((~~disadvantaged business enterprises~~)) business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs.

(2) All subcontract bid packages in which bidder eligibility was not determined in advance shall include the specific objective criteria that will be used by the general contractor/construction manager and the public body to evaluate bidder responsibility. If the lowest bidder submitting a responsive bid is determined by the general contractor/construction manager and the public body not to be responsible, the general contractor/construction manager and the public body must provide written documentation to that bidder explaining their intent to reject the bidder as not responsible and afford the bidder the opportunity to establish that it is a responsible bidder. Responsibility shall be determined in accordance with criteria listed in the bid documents. Protests concerning bidder responsibility determination by the general contractor/construction manager and the public body shall be in accordance with subsection (4) of this section.

(3) All subcontractors who bid work over $300,000 shall post a bid bond. All subcontractors who are awarded a contract over $300,000 shall provide a performance and payment bond for the contract amount. All other

subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager.

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

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

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

(a) All responsive bids or proposal prices exceed the published bid package estimates; and

(b) The apparent low responsive bid or proposal does not exceed the published bid package estimates by more than 10 percent.

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

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

Sec. 12. RCW 39.10.385 and 2021 c 230 s 12 are each amended to read as follows:

The selection process in this section may be used by public bodies certified under RCW 39.10.270. It may also be used by noncertified public bodies if this selection process has been approved for the project by the project review committee. As an alternative to the subcontractor selection process outlined in RCW 39.10.380, a general contractor/construction manager may, with the approval of the public body, select one or more subcontractors using the process outlined in this section. This alternative selection process may only be used when the anticipated value of the subcontract will exceed ((~~three million dollars~~)) $3,000,000. When using the alternative selection process, the general contractor/construction manager should select the subcontractor early in the life of the public works project.

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

(a) Publish a notice of intent to use this alternative selection process in the same legal newspaper where the public solicitation of proposals is published. The general contractor/construction manager and public body are encouraged to post the notice in additional areas beyond the legal newspaper as required under this subsection, such as websites for business associations, the office of minority and women's business enterprises, and other locations and mediums that will

further publicize the intent to use this alternative selection process. Notice must be published at least ((~~fourteen~~)) 14 calendar days before conducting a public hearing. The notice must include the date, time, and location of the hearing; a statement justifying the basis and need for the alternative selection process; ((~~[and]~~)) and how interested parties may, prior to the hearing, obtain the following: (i) The evaluation criteria and applicable weight given to each criteria that will be used for evaluation, including clear definitions of what should be considered specified general conditions work and what should be considered the fee; and (ii) protest procedures including time limits for filing a protest, which may, in no event, limit the time to file a protest to fewer than four business days from the date the proposer was notified of the selection decision. The evaluation criteria, weights assigned to each criteria, and justification for using this selection process must be made available upon request at least seven calendar days before the public hearing;

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

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

(d) Issue a written final determination to all interested parties. The final determination shall state the reasons the alternative selection process is determined to be in the best interests of the public and shall reasonably address the comments received regarding the criteria and weights for each criterion. Any modifications to the criteria, weights, and protest procedures based on comments received during the public hearing process must be included in the final determination. All protests of the decision to use the alternative selection process must be in writing and submitted to the public body within seven calendar days of the final determination. The public body shall not proceed with the selection process until after responding in writing to the protest.

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

(a) A description of the project, including programmatic, performance, and technical requirements and specifications when available, along with a description of the project's unique aspects, complexities, and challenges;

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

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

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

(e) Protest procedures;

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

(g) The estimated maximum allowable subcontract cost; and

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

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

(a) Ability of the firm's professional personnel to deliver projects similar in size, scope, or complexity;

(b) The firm's past performance on projects similar in size, scope, or complexity;

(c) The firm's ability to meet time and budget requirements on projects similar in size, scope, or complexity;

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

(e) The firm's plan for inclusion of ((~~disadvantaged business enterprises~~)) business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs, to the extent permitted by law;

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

(g) The firm's approach to executing the project based on its delivery of other projects similar in size, scope, or complexity;

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

(i) The firm's safety history;

(j) If interviews are part of the selection process, the solicitation shall describe how interviews will be scored or evaluated, and evaluations shall be included in the written selection summary; and

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

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

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

(6) The general contractor/construction manager and the public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors identified in the solicitation of proposals. Scoring of the nonprice factors shall be added to the scoring of the fee and cost proposals to determine the highest scored firm. The scoring of the nonprice factors must be made available at the public opening of the fee and cost proposals. The general contractor/construction manager shall notify all proposers of the selection decision and make a selection summary of the final

proposals, which shall be available to all proposers within two business days of such notification. The general contractor/construction manager may not evaluate or disqualify a proposal based on the terms of a collective bargaining agreement.

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

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

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

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

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

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

Sec. 13. RCW 39.10.908 and 2021 c 230 s 19 are each amended to read as follows:

In addition to the general contractor/construction manager requirements established in this chapter, public bodies utilizing the general contractor/construction manager method for a heavy civil construction project must also comply with the following requirements:

(1) The heavy civil construction general contractor/construction manager contract solicitation must:

(a) Provide the reasons for using the general contractor/construction manager procedure, including a clear statement that the public body is electing to procure the project as a heavy civil construction project;

(b) Indicate the minimum percentage of the cost of the work to construct the project that will constitute the negotiated self-perform portion of the project;

(c) Indicate whether the public body will allow the price to be paid for the negotiated self-perform portion of the project to be deemed a cost of the work to which the general contractor/construction manager's percent fee applies; and

(d) Require proposals to indicate the proposer's fee for the negotiated self-perform portion of the project;

(2) As part of the negotiation of the maximum allowable construction cost established in RCW 39.10.370(1), the general contractor/construction manager shall submit a proposed construction management and contracting plan, which must include, at a minimum:

(a) The scope of work and cost estimates for each bid package;

(b) A proposed price and scope of work for the negotiated self-perform portion of the project;

(c) The bases used by the general contractor/construction manager to develop all cost estimates, including the negotiated self-perform portion of the project; and

(d) The general contractor/construction manager's updated inclusion plan for ((~~small business entities, disadvantaged business enterprises~~)) business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs, and any other ((~~disadvantaged or~~)) underutilized businesses as the public body may designate in the public solicitation of proposals, as subcontractors and suppliers for the project;

(3) The public body and general contractor/construction manager may negotiate the scopes of work to be procured by bid and the price and scope of work for the negotiated self-perform portion of the project, if any;

(4) The negotiated self-perform portion of the project must not exceed 50 percent of the cost of the work to construct the project;

(5) Notwithstanding any contrary provision of this chapter, for a project that a public body has elected to procure as a heavy civil construction project under this chapter, at least 30 percent of the cost of the work to construct the project included in the negotiated maximum allowable construction cost must be procured through competitive sealed bidding in which bidding by the general contractor/construction manager or its subsidiaries is prohibited;

(6) Subject to the limitation of subsection (5) of this section, the public body may additionally negotiate with the general contractor/construction manager to

determine on which scopes of work the general contractor/construction manager will be permitted to bid, if any;

(7) The public body and general contractor/construction manager shall negotiate, to the public body's satisfaction, a fair and reasonable inclusion plan;

(8) If the public body is unable to negotiate to its reasonable satisfaction a component of this section, negotiations with the firm must be terminated and the public body shall negotiate with the next highest scored firm and continue until an agreement is reached or the process is terminated; and

(9) For a project procured as a heavy civil construction project, an independent audit, paid for by the public body, must be conducted to confirm the proper accrual of costs as outlined in the contract. The public body shall define the scope of the audit in the contract.

NEW SECTION. **Sec. 14.** (1) A state agency or an authorized local government may utilize a statewide small works roster in accordance with subsection (2) of this section or create and maintain one or more small works rosters for different specialties, categories of anticipated work, or geographic areas served by contractors on the roster that have registered for inclusion on that particular roster.

(a) The small works roster shall consist of all responsible contractors who have requested to be on the list, and where required by law, are properly licensed or registered to perform such work in this state in accordance with RCW 39.04.350.

(b) A state agency or authorized local government establishing a small works roster must require contractors desiring to be placed on the roster to indicate if they meet the definition of women and minority-owned business as described in RCW 39.19.030(7)(b), veteran-owned business as defined in RCW 43.60A.010, or small business as defined in RCW 39.04.010, and to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the appropriate agency as a condition of being placed on the roster and award of contract.

(c) At least once a year, the state agency or local government must publish in a newspaper of general circulation and provide the office of minority and women's business enterprises' directory of certified firms a notice of the existence of the roster and solicit contractors for the roster.

(d) Responsible contractors must be added to an appropriate roster at any time they submit a written request and the necessary records.

(e) The contractor must agree and be able to receive notifications and other communications via email.

(f) State agencies or authorized local governments using a small works roster may not break a project into units or construct a project by phases if done for the purposes of avoiding maximum dollar amounts set by this act.

(2) The department of commerce though the municipal research and services center shall develop a statewide small works roster in compliance with subsection (1) of this section by June 30, 2024. The municipal research and services center must develop criteria for the statewide roster with collaboration from affected state and local agencies. The statewide roster must have features to filter the roster by different specialties, categories of anticipated work, or geographic areas served by contractors. The roster must also indicate if the contractor is designated as a small business as defined in RCW 39.04.010.

(3) The department of commerce shall provide funding to the municipal research and services center as appropriated to maintain and publicize a small works roster and work with the municipal research and services center to notify state and local governments authorized to use small works rosters of the statewide roster authority and to provide guidance on how to use the authority. The guidance may take the form of a manual provided to local governments.

(4) A state agency establishing a small works roster shall adopt rules implementing this section. A local government establishing a small works roster shall adopt an ordinance or resolution implementing this section. Procedures included in rules adopted by the department of enterprise services in implementing this section must be included in any rules providing for a small works roster that is adopted by another state agency, if the authority for that state agency to engage in these activities has been delegated to it by the department of enterprise services under chapter 43.19 RCW. An interlocal contract or agreement between two or more state agencies or local governments establishing a small works roster to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the provisions of this subsection.

NEW SECTION. **Sec. 15.** (1) This section provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by state agencies and by any local government that is expressly authorized to use these provisions. These provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of $350,000 or less excluding state sales tax. The small works roster process includes the direct contract provisions authorized under this section and any local government authorized to award contracts using the small works roster process under this section may award contracts using the direct contract provisions of this section. State agencies and authorized local governments using small works rosters must establish procedures for implementing this act.

(2) State agencies and authorized local governments must document good faith efforts annually implementing subsections (6) and (7) of this section.

(3) Invitations for bids or direct contract negotiation must include, at a minimum, an estimate for the scope of work including the nature of the work to be performed as well as the materials and equipment to be furnished. Detailed plans and specifications need not be included.

(4) The department of enterprise services must develop and make available on its public-facing website templates for bid invitations, bidding, and contracting that may be used by state agencies, authorized local governments, and contractors.

(a)(i) For small works roster projects with an estimated cost less than $350,000, not including sales tax, state agencies and authorized local governments may contract by securing written or electronic quotations to assure that a competitive price is established and to award contracts to the responsible bidder with the lowest responsive bid.

(ii) A state agency or authorized local government contracting through a small works roster shall invite bids notifying all contractors on the applicable roster that have indicated interest in performing work in the applicable geographical area.

(b) For small public works projects with an estimated cost less than $150,000, not including sales tax, to increase the utilization of small businesses, state agencies and local governments are encouraged to and may direct contract with small businesses as defined in this act, before direct contracting with other contractors on the appropriate small works roster without a competitive process as follows:

(i) If there are six or more contractors meeting the definition of small business on the applicable roster, the state agency or authorized local government must direct contract with one of those small businesses on the applicable roster that have indicated interest in performing work in the applicable geographical area. A state agency or authorized local government utilizing direct contracting pursuant to this subsection must rotate through the contractors on the appropriate small works roster and must, when qualified contractors are available from the roster who may perform the work or deliver the services within the budget described in the notice or request for proposals, utilize different contractors on different projects.

(ii) If there are five or less contractors meeting the definition of small business on the applicable roster, the state agency or authorized local government may direct contract with any contractor on the applicable roster.

(iii) The state agency or authorized local government must notify small, minority, women, or veteran-owned businesses on the applicable roster when direct contracting is utilized.

(iv) It is the intent of the legislature to increase utilization of small, minority, women, and veteran-owned businesses. Each state agency and authorized local government shall establish a small, minority, women, and veteran-owned business utilization plan. A state agency or authorized local government engaging in direct contracting may not favor certain contractors on the appropriate small works roster by repeatedly awarding contracts without documented attempts to direct contract with other contractors on the appropriate small works roster.

(v) If the state agency or authorized local government elects not to use the methods outlined in this subsection, it may not use direct contracting and must invite bids by electronically notifying all contractors on the applicable roster that have indicated interest in performing work in the applicable geographical area as described in this section.

(5) For small public works contracts under $5,000, there is no requirement for retainage or performance bonds. Small public works contracts valued at more than $5,000 shall be subject to performance bond requirements set forth in chapter 39.08 RCW and retainage requirements set forth in chapter 60.28 RCW, provided, however, that the awarding state agency or authorized local government may reduce or waive retainage requirements set forth in RCW 60.28.011(1)(a), thereby assuming the liability for the contractor's nonpayment of: (a) Laborers, mechanics, subcontractors, materialpersons, and suppliers; and (b) taxes, increases, and penalties pursuant to Titles 50, 51, and 82 RCW that may be due from the contractor for the project. Any such waiver will not affect the rights of the state agency or local government to recover against the contractor for any payments made on the contractor's behalf. For small public works contracts awarded through a bid solicitation, notice of any retainage reduction or waiver must be provided in bid solicitations.

(6) After an award is made, the bid quotations obtained shall be recorded, publicly available, and available by request.

(7) Annually, a state agency or authorized local government must publish a list of small works contracts awarded and contractors contacted for direct negotiation pursuant to RCW 39.04.200.

NEW SECTION. **Sec. 16.** Beginning in 2025 and every five years thereafter, the capital projects advisory review board must review construction cost escalation data for Washington state, readily available in industry publications, roster utilization, and other appropriate data and metrics, and make recommendations to the appropriate committees of the legislature on adjustments to the contracting thresholds described in section 15 of this act.

Sec. 17. RCW 28A.335.190 and 2013 c 223 s 1 are each amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the threshold levels specified in subsections (2) and (4) of this section, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids and that specifications and other information may be examined at the office of the board or any other officially designated location. The cost of any public work, improvement, or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment, or supplies, except books, the cost of which is estimated to be in excess of ((~~forty thousand dollars~~)) $40,000, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from ((~~forty thousand dollars~~)) $40,000 up to ((~~seventy-five thousand dollars~~)) $75,000, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of ((~~seventy-five thousand dollars~~)) $75,000, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Any school district may purchase goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections pursuant to RCW 72.09.100, including but not limited to furniture, equipment, or supplies. School districts are encouraged to set as a target to contract, beginning after June 30, 2006, to purchase up to one percent of the total goods required by the school districts each year, goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(4) The board may make improvements or repairs to the property of the district through a department within the district without following the public

bidding process provided in subsection (1) of this section when the total of such improvements or repairs does not exceed the sum of ((~~seventy-five thousand dollars~~)) $75,000. Whenever the estimated cost of a building, improvement, repair, or other public works project is one hundred thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed unless the contract is let using the small works roster process in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act or under any other procedure authorized for school districts. One or more school districts may authorize an educational service district to establish and operate a small works roster for the school district under the provisions of ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

(5) The contract for the work or purchase shall be awarded to the lowest responsible bidder as described in RCW 39.26.160(2) but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

(6) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency," for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

(7) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195.

(8) This section does not apply to the purchase of Washington grown food.

(9) At the discretion of the board, a school district may develop and implement policies and procedures to facilitate and maximize to the extent practicable, purchases of Washington grown food including, but not limited to, policies that permit a percentage price preference for the purpose of procuring Washington grown food.

(10) As used in this section, "Washington grown" has the definition in RCW 15.64.060.

(11) As used in this section, "price percentage preference" means the percent by which a responsive bid from a responsible bidder whose product is a Washington grown food may exceed the lowest responsive bid submitted by a responsible bidder whose product is not a Washington grown food.

Sec. 18. RCW 28B.10.350 and 2009 c 229 s 2 are each amended to read as follows:

(1) When the cost to The Evergreen State College or any regional or state university of any building, construction, renovation, remodeling, or demolition, other than maintenance or repairs, will equal or exceed the sum of ((~~ninety thousand dollars~~)) $90,000, or ((~~forty-five thousand dollars~~)) $45,000 if the work involves one trade or craft area, complete plans and specifications for the work shall be prepared, the work shall be put out for public bid, and the contract shall be awarded to the responsible bidder who submits the lowest responsive bid.

(2) Any building, construction, renovation, remodeling, or demolition project that exceeds the dollar amounts in subsection (1) of this section is subject to the provisions of chapter 39.12 RCW.

(3) The Evergreen State College or any regional or state university may require a project to be put to public bid even when it is not required to do so under subsection (1) of this section. Any project publicly bid under this subsection is subject to the provisions of chapter 39.12 RCW.

(4) Where the estimated cost of any building, construction, renovation, remodeling, or demolition is less than ((~~ninety thousand dollars~~)) $90,000 or the contract is awarded by the small works roster procedure authorized in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act, the publication requirements of RCW 39.04.020 do not apply.

(5) In the event of any emergency when the public interest or property of The Evergreen State College or a regional or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of an emergency and, reciting the facts constituting the same, may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency. For the purposes of this section, "emergency" means a condition likely to result in immediate physical injury to persons or to property of the college or university in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations.

(6) This section does not apply when a contract is awarded by the small works roster procedure authorized in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act or under any other procedure authorized for an institution of higher education.

Sec. 19. RCW 28B.50.330 and 2009 c 229 s 1 are each amended to read as follows:

(1) The boards of trustees of college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping, demolition, and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW 28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests, or grants, and such additional funds as the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules of the state board. With respect to building, improvements, or repairs, or other work, where the estimated cost exceeds ((~~ninety thousand dollars~~)) $90,000, or ((~~forty-five thousand dollars~~)) $45,000 if the work involves one trade or craft area, complete plans and specifications for the work shall be prepared, the work shall be put out for a public bid, and the contract shall be awarded to the responsible bidder who submits the lowest responsive bid. Any project regardless of dollar amount may be put to public bid.

(2) This section does not apply when a contract is awarded by the small works roster procedure authorized in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

(3) Where the estimated cost to any college of any building, improvements, or repairs, or other work, is less than ((~~ninety thousand dollars~~)) $90,000, or ((~~forty-five thousand dollars~~)) $45,000 if the work involves one trade or craft area, the publication requirements of RCW 39.04.020 do not apply.

Sec. 20. RCW 35.22.620 and 2019 c 434 s 11 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first-class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first-class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ((~~ten~~)) 10 percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first-class city has a county perform for it under RCW 35.77.020 shall be included within this ((~~ten~~)) 10 percent limitation.

If a first-class city has public works performed by public employees in any budget period that are in excess of this ((~~ten~~)) 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first-class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first-class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first-class city shall not have public employees perform a public works project in excess of ((~~one hundred fifty thousand dollars~~)) $150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of ((~~seventy-five thousand five hundred dollars~~)) $75,500 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every first-class city annually may prepare a report for the state auditor indicating the total public works construction budget and

supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

Each first-class city with a population of ((~~one hundred fifty thousand~~)) 150,000 or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of ((~~five thousand dollars~~)) $5,000 that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to RCW 39.04.280 if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first-class city may let contracts using the small works roster process in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

Whenever possible, the city shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020((~~(4)~~)) (6), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first-class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(11)(a) Any first-class city may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever

possible, the city must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

Sec. 21. RCW 35.23.352 and 2019 c 434 s 1 are each amended to read as follows:

(1) Any second-class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of ((~~one hundred sixteen thousand one hundred fifty-five dollars~~)) $116,155 if more than one craft or trade is involved with the public works, or ((~~seventy-five thousand five hundred dollars~~)) $75,500 if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ((~~ten~~)) 10 days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or

commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the city issues a written finding that the lowest bidder has delivered a project to the city within the last three years which was late, over budget, or did not meet specifications, and the city does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the city may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

(3) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(4) In lieu of the procedures of subsection (1) of this section, a second-class city or a town may let contracts using the small works roster process provided in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

Whenever possible, the city or town shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(5) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of ((~~five thousand dollars~~)) $5,000 that are not let by contract.

(6) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(7) Any purchase of supplies, material, or equipment, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

(8) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(9) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of ((~~fifteen thousand dollars~~)) $15,000 or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(10) The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(11) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(((~~(4)~~))) (6), that are negotiated under chapter 39.35A RCW.

(12) Nothing in this section shall prohibit any second-class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(13)(a) Any second-class city or any town may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city or town, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city or town having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city or town will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city or town must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

(14) Any second-class city or town that awards a project to a bidder under the criteria described in subsection (2) of this section must make an annual report to the department of commerce that includes the total number of bids awarded to certified minority or women contractors and describing how notice was provided to potential certified minority or women contractors.

Sec. 22. RCW 35.61.135 and 2009 c 229 s 10 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of ((~~twenty thousand dollars~~)) $20,000, shall be let by contract and competitive bidding. Before awarding any such contract the board of park commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once ((~~thirteen~~)) 13 days before the last date upon which bids will be received, inviting sealed proposals for such work, plans, and specifications which must at the time of publication of such notice be on file in the office of the board of park commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of park commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the metropolitan park district for a sum not

less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the metropolitan park district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash, or bid bond. At the time and place named such bids shall be publicly opened and read and the board of park commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. The board of park commissioners may reject all bids for good cause and readvertise and in such case all checks, cash, or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract is entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of park commissioners in the full amount of the contract price between the bidder and the metropolitan park district in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ten days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the metropolitan park district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of park commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the metropolitan park district is entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to requirements under subsection (1) of this section, a metropolitan park district may let contracts using the small works roster process under ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

(3) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of ((~~forty thousand dollars~~)) $40,000, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of less than ((~~fifty thousand dollars~~)) $50,000 shall be made using the process provided in RCW 39.04.190. Any purchase of materials, supplies, or equipment with an estimated cost of ((~~fifty thousand dollars~~)) $50,000 or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(4) As an alternative to requirements under subsection (3) of this section, a metropolitan park district may let contracts for purchase of materials, supplies, or equipment with the suppliers designated on current state agency, county, city, or town purchasing rosters for the materials, supplies, or equipment, when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town. The price and terms for purchases shall be as described on the applicable roster.

(5) The park board may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

Sec. 23. RCW 35.82.076 and 2000 c 138 s 205 are each amended to read as follows:

A housing authority may establish and use a small works roster for awarding contracts under ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

Sec. 24. RCW 36.32.235 and 2019 c 434 s 8 are each amended to read as follows:

(1) In each county which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section:

(a) "Public works" has the same definition as in RCW 39.04.010.

(b) "Riverine project" means a project of construction, alteration, repair, replacement, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property, carried out on a river or stream and its tributaries and associated floodplains, beds, banks, and waters for the purpose of improving aquatic habitat, improving water quality, restoring floodplain function, or providing flood protection.

(c) "Stormwater project" means a project of construction, alteration, repair, replacement, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property, carried out on a municipal separate storm sewer system, and any connections to the system, that is regulated under a state-issued national pollutant discharge elimination system general municipal stormwater permit for the purpose of improving control of stormwater runoff quantity and quality from developed land, safely conveying stormwater runoff, or reducing erosion or other water quality impacts caused by municipal separate storm sewer system discharges.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least ((~~forty~~)) 40 percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements

shall be published at least once at least ((~~thirteen~~)) 13 days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, may be in either hard copy or electronic form as specified by the county, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and, after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ((~~ten~~)) 10 days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(8) As limited by subsection (11) of this section, a county subject to these provisions may have public works performed by county employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection (13) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in subsection (3) of this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) A county may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(a) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the county, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(b) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the county having the option of extending or renewing the unit priced contract for one additional year.

(c) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and

specify how the county will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. The contract must be awarded to the lowest responsible bidder as defined under RCW 39.04.010. Whenever possible, the county must invite at least one bid from a certified minority or woman contractor who otherwise qualifies under this section.

(d) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

(10) If a county subject to these provisions has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld shall be distributed to the county when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been reduced as required.

(11) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to these provisions containing a population of ((~~four hundred thousand~~)) 400,000 or more shall not have public employees perform: A public works project in excess of ((~~ninety thousand dollars~~)) $90,000 if more than a single craft or trade is involved with the public works project, a riverine project or stormwater project in excess of ((~~two hundred fifty thousand dollars~~)) $250,000 if more than a single craft or trade is involved with the riverine project or stormwater project, a public works project in excess of ((~~forty-five thousand dollars~~)) $45,000 if only a single craft or trade is involved with the public works project, or a riverine project or stormwater project in excess of ((~~one hundred twenty-five thousand dollars~~)) $125,000 if only a single craft or trade is involved with the riverine project or stormwater project. A public works project, a riverine project, and a stormwater project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by public employees on a single project.

The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(12) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end

report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

(13) Notwithstanding any other provision in this section, counties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

(14) In lieu of the procedures of subsections (3) through (12) of this section, a county may let contracts using the small works roster process provided in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

Whenever possible, the county shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(15) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

(16) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(((~~(4)~~))) (6), that are negotiated under chapter 39.35A RCW.

(17) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(18) This section does not apply to contracts between the public stadium authority and a team affiliate under RCW 36.102.060(4), or development agreements between the public stadium authority and a team affiliate under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

Sec. 25. RCW 36.32.250 and 2009 c 229 s 8 are each amended to read as follows:

No contract for public works may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general

circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper shall be sufficient. Such advertisements shall be published at least once at least ((~~thirteen~~)) 13 days prior to the last date upon which bids will be received. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract for public works involving less than forty thousand dollars, advertisement and competitive bidding may be dispensed with on order of the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

As an alternative to requirements under this section, a county may let contracts using the small works roster process under ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(((~~(4)~~))) (6), that are negotiated under chapter 39.35A RCW.

Sec. 26. RCW 36.77.075 and 2000 c 138 s 208 are each amended to read as follows:

In lieu of the procedure for awarding contracts that is provided in RCW 36.77.020 through 36.77.040, a county may award contracts for public works projects on county roads using the small works roster process under ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

Sec. 27. RCW 39.04.200 and 2000 c 138 s 103 are each amended to read as follows:

Any local government using the uniform process established in RCW 39.04.190 to award contracts for purchases must post a list of the contracts awarded under that process at least once every two months. Any state agency or local government using the small works roster process established in ((~~RCW 39.04.155~~)) sections 14 through 16 of this act to award contracts for construction, building, renovation, remodeling, alteration, repair, or

improvement of real property must make available a list of the contracts awarded under that process at least once every year. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection.

Sec. 28. RCW 39.04.380 and 2015 c 225 s 39 are each amended to read as follows:

(1) ((~~The department of enterprise services must conduct a survey and compile the results into a list of which states provide a bidding preference on public works contracts for their resident contractors. The list must include details on the type of preference, the amount of the preference, and how the preference is applied. The list must be updated periodically as needed. The initial survey must be completed by November 1, 2011, and by December 1, 2011, the department must submit a report to the appropriate committees of the legislature on the results of the survey. The report must include the list and recommendations necessary to implement the intent of this section and section 2, chapter 345, Laws of 2011.~~

~~(2) The department of enterprise services must distribute the report, along with the requirements of this section and section 2, chapter 345, Laws of 2011, to all state and local agencies with the authority to procure public works. The department may adopt rules and procedures to implement the reciprocity requirements in subsection (3) of this section. However, subsection (3) of this section does not take effect until the department of enterprise services has adopted the rules and procedures for reciprocity under this subsection or announced that it will not be issuing rules or procedures pursuant to this section.~~

~~(3)~~)) In any bidding process for public works in which a bid is received from a nonresident contractor from a state that provides a percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor. ((~~This subsection does not apply until the department of enterprise services has adopted the rules and procedures for reciprocity under subsection (2) of this section, or has determined and announced that rules are not necessary for implementation.~~

~~(4)~~)) (2) A nonresident contractor from a state that provides a percentage bid preference means a contractor that:

(a) Is from a state that provides a percentage bid preference to its resident contractors bidding on public works contracts; and

(b) At the time of bidding on a public works project, does not have a physical office located in Washington.

(((~~(5)~~))) (3) The state of residence for a nonresident contractor is the state in which the contractor was incorporated or, if not a corporation, the state where the contractor's business entity was formed.

(((~~(6)~~))) (4) This section does not apply to public works procured pursuant to RCW ((~~39.04.155,~~)) 39.04.280, sections 14 through 16 of this act, or any other procurement exempt from competitive bidding.

Sec. 29. RCW 39.12.040 and 2019 c 434 s 6 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it is the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages must include:

(i) The contractor's registration certificate number; and

(ii) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

(b) Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to the disbursing officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate must state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it is the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an affidavit of wages paid before the funds retained according to the provisions of RCW 60.28.011 are released to the contractor. On a public works project where no retainage is withheld, the affidavit of wages paid must be submitted to the state, county, municipality, or other public body charged with the duty of disbursing or authorizing disbursement of public funds prior to final acceptance of the public works project. If a subcontractor performing work on a public works project fails to submit an affidavit of wages paid form, the contractor or subcontractor with whom the subcontractor had a contractual relationship for the project may file the forms on behalf of the nonresponsive subcontractor. Affidavit forms may only be filed on behalf of a nonresponsive subcontractor who has ceased operations or failed to file as required by this section. The contractor filing the affidavit must accept responsibility for payment of prevailing wages unpaid by the subcontractor on the project pursuant to RCW 39.12.020 and 39.12.065. Intentionally filing a false affidavit on behalf of a subcontractor subjects the filer to the same penalties as are provided in RCW 39.12.050. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to the disbursing officer.

(2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of ((~~two thousand five hundred dollars~~)) $5,000 or less ((~~and for projects where the limited public works process~~)) as allowed under ((~~RCW 39.04.155(3)~~)) section 15 of this act is followed:

(a) An awarding agency may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the officer or person charged with the custody or disbursement of public funds in the awarding agency without approval by the industrial statistician of the department of labor

and industries. The awarding agency must retain such statement of intent to pay prevailing wages for a period of not less than three years.

(b) Upon final acceptance of the public works project, the awarding agency must require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to the provisions of RCW 60.28.011. Within thirty days of receipt of the affidavit of wages paid, the awarding agency must submit the affidavit of wages paid to the industrial statistician of the department of labor and industries for approval.

(c) A statement of intent to pay prevailing wages and an affidavit of wages paid must be on forms approved by the department of labor and industries.

(d) In the event of a wage claim and a finding for the claimant by the department of labor and industries where the awarding agency has used the alternative process provided for in this subsection (2), the awarding agency must pay the wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the awarding agency may take action at law to seek reimbursement from the contractor or subcontractor of wages paid to the claimant, and may prohibit the contractor or subcontractor from bidding on any public works contract of the awarding agency for up to one year.

(e) Nothing in this section may be interpreted to allow an awarding agency to subdivide any public works project of more than ((~~two thousand five hundred dollars~~)) $5,000 for the purpose of circumventing the procedures required by subsection (1) of this section.

Sec. 30. RCW 52.14.110 and 2019 c 434 s 12 are each amended to read as follows:

Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

(1) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of ((~~forty thousand dollars~~)) $40,000. However, whenever the estimated cost does not exceed ((~~seventy-five thousand dollars~~)) $75,000, the commissioners may by resolution use the process provided in RCW 39.04.190 to award contracts;

(2) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of ((~~thirty thousand dollars~~)) $30,000, which includes the costs of labor, material, and equipment;

(3) Contracts using the small works roster process under ((~~RCW 39.04.155~~)) sections 14 through 16 of this act; and

(4) Any contract for purchases or public work pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

Sec. 31. RCW 53.08.120 and 2018 c 149 s 2 are each amended to read as follows:

(1) All material and work required by a port district not meeting the definition of public work in RCW 39.04.010((~~(4)~~)) may be procured in the open market or by contract and all work ordered may be done by contract or day labor.

(2)(a) All such contracts for work meeting the definition of "public work" in RCW 39.04.010((~~(4), the estimated cost of which exceeds three hundred thousand dollars,~~)) shall be awarded using a competitive bid process. The contract must be awarded at public bidding upon notice published in a newspaper of general circulation in the district at least ((~~thirteen~~)) 13 days before the last date upon which bids will be received, calling for bids upon the work, plans and specifications for which shall then be on file in the office of the commission for public inspection. The same notice may call for bids on such work or material based upon plans and specifications submitted by the bidder. The competitive bidding requirements for purchases or public works may be waived pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(b)(i) For all contracts related to work meeting the definition of "public work" in RCW 39.04.010((~~(4) that are estimated at three hundred thousand dollars or less~~)):

(A) Until July 1, 2024, a port district may let contracts using the small works roster process under RCW 39.04.155 in lieu of advertising for bids.

(B) Beginning July 1, 2024, a port district may let contracts using the small works roster process under sections 14 through 16 of this act in lieu of advertising for bids.

(ii) Whenever possible, the managing official shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section.

(iii) When awarding such a contract for work, when utilizing proposals from the small works roster, the managing official shall give weight to the contractor submitting the lowest and best proposal, and whenever it would not violate the public interest, such contracts shall be distributed equally among contractors, including minority contractors, on the small works roster.

(c) Any port district may construct any public work, as defined in RCW 39.04.010, by contract without calling for bids whenever the estimated cost of the work or improvement, including cost of materials, supplies, and equipment, will not exceed the sum of ((~~forty thousand dollars~~)) $40,000. A "public works project" means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid calling for bids. The port district managing official shall make his or her best effort to reach out to qualified contractors, including certified minority and woman-owned contractors.

(3)(a) A port district may procure public works with a unit priced contract under this section or RCW 39.04.010((~~(2)~~)) (3) for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, unit priced contract means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of a port district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the port district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit priced bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the port district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the port district must invite at least one proposal from a minority or woman contractor who otherwise qualifies under this section.

(e) Unit priced contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts shall have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid shall be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

Sec. 32. RCW 54.04.070 and 2019 c 434 s 7 are each amended to read as follows:

(1) Any item, or items of the same kind of materials, equipment, or supplies purchased, the estimated cost of which is in excess of thirty thousand dollars, exclusive of sales tax, shall be by contract. However, a district may make purchases of the same kind of items of materials, equipment, and supplies not exceeding ((~~twelve thousand dollars~~)) $12,000 in any calendar month without a contract, purchasing any excess thereof over ((~~twelve thousand dollars~~)) $12,000 by contract.

(2) Any work ordered by a district commission, the estimated cost of which is in excess of ((~~fifty thousand dollars~~)) $50,000, exclusive of sales tax, shall be by contract. However, a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding ((~~three hundred thousand dollars~~)) $300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(3) Before awarding a contract required under subsection (1) or (2) of this section, the commission shall publish a notice once or more in a newspaper of general circulation in the district at least ((~~thirteen~~)) 13 days before the last date upon which bids will be received, inviting sealed proposals for the work or materials. Plans and specifications for the work or materials shall at the time of publication be on file at the office of the district and subject to public inspection. Any published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may,

at the same time and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by the bidders.

(4) As an alternative to the competitive bidding requirements of this section and RCW 54.04.080, a district may let contracts using the small works roster process under ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

(5) Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission, and may consider such price as a bid without a deposit or bond.

(6) Pursuant to RCW 39.04.280, the commission may waive the competitive bidding requirements of this section and RCW 54.04.080 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

(7)(a) A district may procure public works with a unit priced contract under this section, RCW 54.04.080, or 54.04.085 for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, unit priced contract means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of a district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Where electrical facility construction or improvement work is anticipated, contractors on a unit priced contract shall comply with the requirements under RCW 54.04.085 (1) through (5). Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ((~~twelve-month~~)) 12-month period of the unit priced contract.

Sec. 33. RCW 57.08.050 and 2019 c 434 s 10 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of ((~~fifty thousand dollars~~)) $50,000, shall be let by contract and competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once ((~~thirteen~~)) 13 days before the last date upon which bids will be received,

inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ((~~ten~~)) 10 days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to requirements under subsection (1) of this section, a water-sewer district may let contracts using the small works roster process under ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

(3) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of ((~~forty thousand dollars~~)) $40,000, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of less than ((~~fifty thousand dollars~~)) $50,000 shall be made using the process provided in RCW 39.04.190. Any purchase of materials, supplies, or equipment with an estimated cost of ((~~fifty thousand dollars~~)) $50,000 or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(4) As an alternative to requirements under subsection (3) of this section, a water-sewer district may let contracts for purchase of materials, supplies, or

equipment with the suppliers designated on current state agency, county, city, or town purchasing rosters for the materials, supplies, or equipment, when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town. The price and terms for purchases shall be as described on the applicable roster.

(5) The board may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(6)(a) A district may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids must include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the district must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

Sec. 34. RCW 70.44.140 and 2016 c 51 s 1 are each amended to read as follows:

(1) All materials purchased and work ordered, the estimated cost of which is in excess of ((~~seventy-five thousand dollars~~)) $75,000, shall be by contract. Before awarding any such contract, the commission shall publish a notice at least ((~~thirteen~~)) 13 days before the last date upon which bids will be received, inviting sealed proposals for such work. The plans and specifications must at the time of the publication of such notice be on file at the office of the public hospital district, subject to public inspection: PROVIDED, HOWEVER, That the commission may at the same time, and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by bidders. The notice shall state generally the work to be done, and shall call for proposals for doing the same, to be sealed and filed with the commission on or before the day and hour named therein. Each bid shall be accompanied by bid proposal security in the form of a certified check, cashier's check, postal money

order, or surety bond made payable to the order of the commission, for a sum not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal security. At the time and place named, such bids shall be publicly opened and read, and the commission shall proceed to canvass the bids, and may let such contract to the lowest responsible bidder upon plans and specifications on file, or to the best bidder submitting his or her own plans and specifications. If, in the opinion of the commission, all bids are unsatisfactory, they may reject all of them and readvertise, and in such case all bid proposal security shall be returned to the bidders. If the contract is let, then all bid proposal security shall be returned to the bidders, except that of the successful bidder, which is retained until a contract shall be entered into for the purchase of such materials for doing such work, and a bond to perform such work furnished, with sureties satisfactory to the commission, in an amount to be fixed by the commission, not less than ((~~twenty-five~~)) 25 percent of contract price in any case, between the bidder and commission, in accordance with the bid. If such bidder fails to enter into the contract in accordance with the bid and furnish such bond within ((~~ten~~)) 10 days from the date at which the bidder is notified that he or she is the successful bidder, the bid proposal security and the amount thereof shall be forfeited to the public hospital district. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to the requirements of subsection (1) of this section, a public hospital district may let contracts using the small works roster process under ((~~RCW 39.04.155~~)) sections 14 through 16 of this act.

(3) Any purchases with an estimated cost of up to ((~~fifteen thousand dollars~~)) $15,000 may be made using the process provided in RCW 39.04.190.

(4) The commission may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

Sec. 35. RCW 87.03.436 and 2010 c 201 s 2 are each amended to read as follows:

((~~All~~)) (1) Until July 1, 2024, all contract projects, the estimated cost of which is less than ((~~three hundred thousand dollars~~)) the amount authorized, may be awarded using the small works roster process under RCW 39.04.155.

(2) Beginning July 1, 2024, all contract projects, the estimated cost of which is less than the amount authorized, may be awarded using the small works roster process under sections 14 through 16 of this act.

Sec. 36. RCW 43.131.408 and 2021 c 230 s 22 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2032:

(1) RCW 39.10.200 and 2023 c . . . s 4 (section 4 of this act), 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, & 1994 c 132 s 1;

(2) RCW 39.10.210 and 2023 c . . . s 5 (section 5 of this act), 2021 c 230 s 1, 2019 c 212 s 1, 2014 c 42 s 1, & 2013 c 222 s 1;

(3) RCW 39.10.220 and 2023 c . . . s 6 (section 6 of this act), 2021 c 230 s 2, 2013 c 222 s 2, 2007 c 494 s 102, & 2005 c 377 s 1;

(4) RCW 39.10.230 and 2023 c . . . s 7 (section 7 of this act), 2021 c 230 s 3, 2013 c 222 s 3, 2010 1st sp.s. c 21 s 3, 2009 c 75 s 1, 2007 c 494 s 103, & 2005 c 377 s 2;

(5) RCW 39.10.240 and 2023 c . . . s 8 (section 8 of this act), 2021 c 230 s 4, 2013 c 222 s 4, & 2007 c 494 s 104;

(6) RCW 39.10.250 and 2021 c 230 s 5, 2019 c 212 s 2, 2013 c 222 s 5, 2009 c 75 s 2, & 2007 c 494 s 105;

(7) RCW 39.10.260 and 2013 c 222 s 6 & 2007 c 494 s 106;

(8) RCW 39.10.270 and 2019 c 212 s 3, 2017 c 211 s 1, 2013 c 222 s 7, 2009 c 75 s 3, & 2007 c 494 s 107;

(9) RCW 39.10.280 and 2014 c 42 s 2, 2013 c 222 s 8, & 2007 c 494 s 108;

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

(11) RCW 39.10.300 and 2021 c 230 s 6, 2019 c 212 s 4, 2013 c 222 s 9, 2009 c 75 s 4, & 2007 c 494 s 201;

(12) RCW 39.10.320 and 2019 c 212 s 5, 2013 c 222 s 10, 2007 c 494 s 203, & 1994 c 132 s 7;

(13) RCW 39.10.330 and 2023 c . . . s 9 (section 9 of this act), 2021 c 230 s 7, 2019 c 212 s 6, 2014 c 19 s 1, 2013 c 222 s 11, 2009 c 75 s 5, & 2007 c 494 s 204;

(14) RCW 39.10.340 and 2014 c 42 s 3, 2013 c 222 s 12, & 2007 c 494 s 301;

(15) RCW 39.10.350 and 2021 c 230 s 8, 2014 c 42 s 4, & 2007 c 494 s 302;

(16) RCW 39.10.360 and 2023 c . . . s 10 (section 10 of this act), 2021 c 230 s 9, 2014 c 42 s 5, 2013 c 222 s 13, 2009 c 75 s 6, & 2007 c 494 s 303;

(17) RCW 39.10.370 and 2021 c 230 s 10, 2014 c 42 s 6, & 2007 c 494 s 304;

(18) RCW 39.10.380 and 2023 c . . . s 11 (section 11 of this act), 2021 c 230 s 11, 2013 c 222 s 14, & 2007 c 494 s 305;

(19) RCW 39.10.385 and 2023 c . . . s 12 (section 12 of this act), 2021 c 230 s 12, 2013 c 222 s 15, & 2010 c 163 s 1;

(20) RCW 39.10.390 and 2021 c 230 s 13, 2014 c 42 s 7, 2013 c 222 s 16, & 2007 c 494 s 306;

(21) RCW 39.10.400 and 2021 c 230 s 14, 2013 c 222 s 17, & 2007 c 494 s 307;

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

(23) RCW 39.10.420 and 2019 c 212 s 7, 2017 c 136 s 1, & 2016 c 52 s 1;

(24) RCW 39.10.430 and 2021 c 230 s 15, 2019 c 212 s 8, & 2007 c 494 s 402;

(25) RCW 39.10.440 and 2021 c 230 s 16, 2019 c 212 s 9, 2015 c 173 s 1, 2013 c 222 s 19, & 2007 c 494 s 403;

(26) RCW 39.10.450 and 2019 c 212 s 10, 2012 c 102 s 2, & 2007 c 494 s 404;

(27) RCW 39.10.460 and 2021 c 230 s 17, 2012 c 102 s 3, & 2007 c 494 s 405;

(28) RCW 39.10.470 and 2019 c 212 s 11, 2014 c 19 s 2, 2005 c 274 s 275, & 1994 c 132 s 10;

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

(30) RCW 39.10.490 and 2021 c 230 s 18, 2013 c 222 s 20, 2007 c 494 s 501, & 2001 c 328 s 5;

(31) RCW 39.10.900 and 1994 c 132 s 13;
(32) RCW 39.10.901 and 1994 c 132 s 14;
(33) RCW 39.10.903 and 2007 c 494 s 510;
(34) RCW 39.10.904 and 2007 c 494 s 512;
(35) RCW 39.10.905 and 2007 c 494 s 513; and
(36) RCW 39.10.908 and 2023 c . . . s 13 (section 13 of this act) and 2021 c 230 s 19.

NEW SECTION. **Sec. 37.** The following acts or parts of acts are each repealed:
(1) RCW 39.04.155 (Small works roster contract procedures—Limited public works process—Definitions) and 2019 c 434 s 5, 2015 c 225 s 33, 2009 c 74 s 1, & 2008 c 130 s 17; and
(2) RCW 39.04.156 (Small works roster manual—Notification to local governments) and 2000 c 138 s 104.

NEW SECTION. **Sec. 38.** Sections 14 through 16 of this act are each added to chapter 39.04 RCW.

NEW SECTION. **Sec. 39.** Sections 1 through 30, 32 through 34, 36, and 37 of this act take effect July 1, 2024.

NEW SECTION. **Sec. 40.** Sections 31 and 35 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023.

Passed by the Senate April 14, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 396

[Engrossed Substitute Senate Bill 5294]

STATE RETIREMENT SYSTEMS—PERS 1 AND TRS 1—ACTUARIAL FUNDING

AN ACT Relating to actuarial funding of state retirement systems; amending RCW 41.45.150; amending 2021 c 334 s 747 (uncodified); providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.45.150 and 2011 c 362 s 8 are each amended to read as follows:

(1) ((~~Beginning July 1, 2009, and ending June 30, 2015, maximum annual contribution rates are established for the portion of the employer contribution rate for the public employees' retirement system and the public safety employees' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. The maximum rates are:~~

~~Fiscal Year ending:~~

~~2010 2011 2012 2013 2014 2015~~

~~1.25% 1.25% 3.75% 4.50% 5.25% 6.00%~~

~~(2) Beginning September 1, 2009, and ending August 31, 2015, maximum annual contribution rates are established for the portion of the employer contribution rate for the school employees' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. The maximum rates are:~~

~~Fiscal Year ending:~~

~~2010~~	~~2011~~	~~2012~~	~~2013~~	~~2014~~	~~2015~~
~~1.25%~~	~~1.25%~~	~~3.75%~~	~~4.50%~~	~~5.25%~~	~~6.00%~~

~~(3) Beginning September 1, 2009, and ending August 31, 2015, maximum annual contribution rates are established for the portion of the employer contribution rate for the teachers' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the teachers' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. The maximum rates are:~~

~~Fiscal Year ending:~~

~~2010~~	~~2011~~	~~2012~~	~~2013~~	~~2014~~	~~2015~~
~~2.04%~~	~~2.04%~~	~~6.50%~~	~~7.50%~~	~~8.50%~~	~~9.50%~~

~~(4)~~)) Beginning July 1, 2015, and ending June 30, 2023, a minimum 3.50 percent contribution is established as part of the basic employer contribution rate for the public employees' retirement system and the public safety employees' retirement system, to be used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. ((~~This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred percent of the actuarial accrued liability.~~

~~(5)~~)) (2) Beginning September 1, 2015, and ending August 31, 2023 a minimum 3.50 percent contribution is established as part of the basic employer contribution rate for the school employees' retirement system, to be used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. ((~~This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred percent of the actuarial accrued liability.~~

~~(6)~~)) (3) Beginning September 1, 2015, and ending August 31, 2023, a minimum 5.75 percent contribution is established as part of the basic employer contribution rate for the teachers' retirement system, to be used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in

the teachers' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. ((~~This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the teachers' retirement system equals one hundred percent of the actuarial accrued liability.~~

~~(7)~~))) (4)(a) Beginning July 1, 2023, and ending June 30, 2027, the following employer contribution rates shall be in effect for the public employees' retirement system and the public safety employees' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009.

Fiscal Year ending:			
2024	2025	2026	2027
2.50%	2.00%	1.50%	0.50%

(b) Beginning July 1, 2027, a minimum 0.50 percent contribution is established as part of the basic employer contribution rate for the public employees' retirement system and the public safety employees' retirement system, to be used for the sole purpose of amortizing any portion of an unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. This minimum contribution rate shall be in effect when the actuarial value of assets in plan 1 of the public employees' retirement system is less than 100 percent of the actuarial accrued liability.

(5)(a) Beginning September 1, 2023, and ending August 31, 2027, the following employer contribution rates shall be in effect for the school employees' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009.

Fiscal Year ending:			
2024	2025	2026	2027
2.50%	2.00%	1.50%	0.50%

(b) Beginning September 1, 2027, a minimum 0.50 percent contribution is established as part of the basic employer contribution rate for the school employees' retirement system, to be used for the sole purpose of amortizing any portion of an unfunded actuarial accrued liability in the public employees' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. This minimum contribution rate shall be in effect when the actuarial value of assets in plan 1 of the public employees' retirement system is less than 100 percent of the actuarial accrued liability.

(6)(a) Beginning September 1, 2023, and ending August 31, 2027, the following employer contribution rates shall be in effect for the teachers' retirement system that is used for the sole purpose of amortizing that portion of the unfunded actuarial accrued liability in the teachers' retirement system plan 1

that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009.

Fiscal Year ending:			
2024	2025	2026	2027
0.50%	0.50%	0.00%	0.00%

(b) Beginning September 1, 2027, a minimum 0.50 percent contribution is established as part of the basic employer contribution rate for the teachers' retirement system, to be used for the sole purpose of amortizing any portion of an unfunded actuarial accrued liability in the teachers' retirement system plan 1 that excludes any amounts required to amortize plan 1 benefit improvements effective after June 30, 2009. This minimum contribution rate shall be in effect when the actuarial value of assets in plan 1 of the teachers' retirement system is less than 100 percent of the actuarial accrued liability.

(7) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of the minimum contribution rates and recommend to the council any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience. Any changes adopted by the council shall be subject to revision by the legislature.

Sec. 2. 2021 c 334 s 747 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TEACHERS' RETIREMENT SYSTEM PLAN 1 FUND

General Fund—State Appropriation (FY 2023) . . . . . ((~~$800,000,000~~))
$250,000,000

TOTAL APPROPRIATION . . . . . ((~~$800,000,000~~))
$250,000,000

The appropriation in this section is subject to the following conditions and limitations: The entire general fund—state appropriation is provided solely for expenditure on June 30, 2023, into the teachers' retirement system plan 1 fund, to be applied to the unfunded actuarial accrued liability.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2023.

Passed by the Senate February 27, 2023.
Passed by the House April 18, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 397

[Senate Bill 5350]

STATE RETIREMENT SYSTEMS—PERS 1 AND TRS 1—BENEFIT INCREASE

AN ACT Relating to providing a benefit increase to certain retirees of the public employees' retirement system plan 1 and the teachers' retirement system plan 1; amending RCW 41.32.4992 and 41.40.1987; creating new sections; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that beneficiaries receiving a monthly benefit from the public employees' retirement system plan 1 and the teachers' retirement system plan 1 have experienced a loss of purchasing power due to rising inflation. Certain beneficiaries do not receive annual increases; providing a one-time cost-of-living adjustment helps address beneficiaries' loss of purchasing power. An ongoing cost-of-living adjustment would provide additional protection against further loss of purchasing power, however this policy may not be affordable until required employer contribution rates towards the unfunded accrued actuarial liability are reduced or no longer required.

NEW SECTION. **Sec. 2.** During the 2023-2025 fiscal biennium, the select committee on pension policy will study and recommend an ongoing cost-of-living adjustment for beneficiaries of the public employees' retirement system plan 1 and the teachers' retirement system plan 1. Any recommendation must consider employer contribution rate stability and coordinate the effective date of an ongoing cost-of-living adjustment with the reduction or elimination of the unfunded accrued actuarial liability.

Sec. 3. RCW 41.32.4992 and 2022 c 52 s 1 are each amended to read as follows:

(1) Beneficiaries who are receiving a monthly benefit from the teachers' retirement system plan 1 on July 1, 2017, shall receive, effective July 1, 2018, an increase to their monthly benefit of one and one-half percent multiplied by the beneficiaries' monthly benefit, not to exceed ((~~sixty-two dollars and fifty cents~~)) $62.50.

(2) Beneficiaries who are receiving a monthly benefit from the teachers' retirement system plan 1 on July 1, 2019, shall receive, effective July 1, 2020, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed ((~~sixty-two dollars and fifty cents~~)) $62.50.

(3) Beneficiaries who are receiving a monthly benefit from the teachers' retirement system plan 1 on July 1, 2021, shall receive, effective July 1, 2022, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed ((~~one hundred ten dollars and zero cents~~)) $110.00.

(4) Beneficiaries who are receiving a monthly benefit from the teachers' retirement system plan 1 on July 1, 2022, shall receive, effective July 1, 2023, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed $110.00.

(5) This section does not apply to those receiving benefits pursuant to RCW 41.32.489 or 41.32.540.

Sec. 4. RCW 41.40.1987 and 2022 c 52 s 2 are each amended to read as follows:

(1) Beneficiaries who are receiving a monthly benefit from the public employees' retirement system plan 1 on July 1, 2017, shall receive, effective July 1, 2018, an increase to their monthly benefit of one and one-half percent multiplied by the beneficiaries' monthly benefit, not to exceed ((~~sixty-two dollars and fifty cents~~)) $62.50.

(2) Beneficiaries who are receiving a monthly benefit from the public employees' retirement system plan 1 on July 1, 2019, shall receive, effective July 1, 2020, an increase to their monthly benefit of three percent multiplied by the

beneficiaries' monthly benefit, not to exceed ((~~sixty-two dollars and fifty cents~~)) $62.50.

(3) Beneficiaries who are receiving a monthly benefit from the public employees' retirement system plan 1 on July 1, 2021, shall receive, effective July 1, 2022, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed ((~~one hundred ten dollars and zero cents~~)) $110.00.

(4) Beneficiaries who are receiving a monthly benefit from the public employees' retirement system plan 1 on July 1, 2022, shall receive, effective July 1, 2023, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed $110.00.

(5) This section does not apply to those receiving benefits pursuant to RCW 41.40.1984.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the Senate February 27, 2023.
Passed by the House April 19, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 398

[Engrossed Substitute Senate Bill 5365]

VAPOR AND TOBACCO PRODUCTS—PURCHASE AND POSSESSION BY MINORS—VARIOUS PROVISIONS

AN ACT Relating to the purchase, use, and possession of vapor and tobacco products by minors; amending RCW 70.155.080, 70.345.140, 70.155.100, 70.155.110, and 70.345.160; reenacting and amending RCW 70.155.120; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

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

(a) Prevention is the most effective tool to reduce vapor and tobacco usage by persons under the age of 21. Protection of adolescents' health and well-being requires enforcement and intervention efforts to focus upon effective vapor and tobacco control and access strategies.

(b) Retailers play a key role in ensuring that state law regarding access to vapor or tobacco is followed. However, the 2021 healthy youth survey found that 15 percent (one out of every six) retail stores illegally sold tobacco or vapor products to a minor in 2021.

(c) Vapor and tobacco product purchase, use, and possession by persons under the age of 21 is a critical public health issue. The 2021 healthy youth survey found that 16 percent of 12th graders in Washington state reported using tobacco or vapor products in the past 30 days, youth under age 18 are far more likely to start using tobacco than adults, and nearly nine out of 10 adults who smoke started by age 18. The healthy youth survey also found that 104,000 Washington youth alive today will ultimately die prematurely from smoking.

(d) With the passage of chapter 15, Laws of 2019, individuals between the ages of 18 and 21 do not face liability for purchase or possession of vapor or

tobacco products but individuals under the age of 18 continue to face civil liability for purchase or possession of vapor or tobacco products, creating a disparity in the law.

(2) The legislature therefore finds that all persons under the age of 21 who purchase, use, or possess vapor or tobacco products should be offered community-based interventions that are more effective in helping them quit. The legislature further resolves to increase enforcement strategies to ensure retailer compliance with tobacco and vapor product possession laws.

Sec. 2. RCW 70.155.080 and 2002 c 175 s 47 are each amended to read as follows:

(1) A person under the age of eighteen who purchases or attempts to purchase, possesses, or obtains or attempts to obtain cigarettes or tobacco products commits a class 3 civil infraction under chapter 7.80 RCW and is subject to ((~~a fine as set out in chapter 7.80 RCW or~~)) participation in up to four hours of community ((~~restitution, or both. The court may also require participation in~~)) service and referral to a smoking cessation program at no cost. This provision does not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of a liquor ((~~control~~)) and cannabis board, law enforcement, or local health department activity.

(2) Municipal and district courts within the state have jurisdiction for enforcement of this section.

Sec. 3. RCW 70.345.140 and 2016 sp.s. c 38 s 14 are each amended to read as follows:

(1) A person under the age of eighteen who purchases or attempts to purchase, possesses, or obtains or attempts to obtain vapor products commits a class 3 civil infraction under chapter 7.80 RCW and is subject to ((~~a fine as set out in chapter 7.80 RCW or~~)) participation in up to four hours of community ((~~restitution, or both. The court may also require participation in~~)) service and referral to a smoking cessation program at no cost. This provision does not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of a board, law enforcement, or local health department activity.

(2) Municipal and district courts within the state have jurisdiction for enforcement of this section.

Sec. 4. RCW 70.155.100 and 2016 sp.s. c 38 s 23 are each amended to read as follows:

(1) The liquor and cannabis board may suspend or revoke a retailer's license issued under RCW 82.24.510(1)(b) or 82.26.150(1)(b) held by a business at any location, or may impose a monetary penalty as set forth in subsection (3) of this section, if the liquor and cannabis board finds that the licensee has violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050, 70.155.070, or 70.155.090.

(2) Any retailer's licenses issued under RCW 70.345.020 to a person whose license or licenses under chapter 82.24 or 82.26 RCW have been suspended or revoked for violating RCW 26.28.080 must also be suspended or revoked during the period of suspension or revocation under this section.

(3) The sanctions that the liquor and cannabis board may impose against a person licensed under RCW 82.24.530 or 82.26.170 based upon one or more findings under subsection (1) of this section may not exceed the following:

(a) For violations of RCW ((~~26.28.080,~~)) 70.155.020((~~,~~)) or 21 C.F.R. Sec. 1140.14, and for violations of RCW 70.155.040 occurring on the licensed premises:

(i) A monetary penalty of ((~~two hundred dollars~~)) $200 for the first violation within any three-year period;

(ii) A monetary penalty of ((~~six hundred dollars~~)) $600 for the second violation within any three-year period;

(iii) A monetary penalty of ((~~two thousand dollars~~)) $2,000 and suspension of the license for a period of six months for the third violation within any three-year period;

(iv) A monetary penalty of ((~~three thousand dollars~~)) $3,000 and suspension of the license for a period of ((~~twelve~~)) 12 months for the fourth violation within any three-year period;

(v) Revocation of the license with no possibility of reinstatement for a period of five years for the fifth or more violation within any three-year period;

(b) For violations of RCW 26.28.080:

(i) A monetary penalty of $1,000 for the first violation within any three-year period;

(ii) A monetary penalty of $2,500 for the second violation within any three-year period;

(iii) A monetary penalty of $5,000 and suspension of the license for a period of six months for the third violation within any three-year period;

(iv) A monetary penalty of $10,000 and suspension of the license for a period of 12 months for the fourth violation within any three-year period;

(v) Revocation of the license with no possibility of reinstatement for a period of five years for the fifth or more violation within any three-year period;

(c) If the board finds that a person licensed under chapter 82.24 or 82.26 RCW and RCW 70.345.020 has violated RCW 26.28.080, each subsequent violation of either of the person's licenses counts as an additional violation within that three-year period((~~.~~));

((~~(c)~~)) (d) For violations of RCW 70.155.030, a monetary penalty in the amount of ((~~one hundred dollars~~)) $100 for each day upon which such violation occurred;

((~~(d)~~)) (e) For violations of RCW 70.155.050, a monetary penalty in the amount of ((~~six hundred dollars~~)) $600 for each violation;

((~~(e)~~)) (f) For violations of RCW 70.155.070, a monetary penalty in the amount of ((~~two thousand dollars~~)) $2,000 for each violation.

(4) The liquor and cannabis board may impose a monetary penalty upon any person other than a licensed cigarette or tobacco product retailer if the liquor and cannabis board finds that the person has violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050, 70.155.070, or 70.155.090.

(5) The monetary penalty that the liquor and cannabis board may impose based upon one or more findings under subsection (4) of this section may not exceed the following:

(a) For violation of RCW 26.28.080 or 70.155.020, ((~~one hundred dollars~~)) $100 for the first violation and ((~~two hundred dollars~~)) $200 for each subsequent violation;

(b) For violations of RCW 70.155.030, ((~~two hundred dollars~~)) $200 for each day upon which such violation occurred;

(c) For violations of RCW 70.155.040, ((~~two hundred dollars~~)) $200 for each violation;

(d) For violations of RCW 70.155.050, ((~~six hundred dollars~~)) $600 for each violation;

(e) For violations of RCW 70.155.070, ((~~two thousand dollars~~)) $2,000 for each violation.

(6) The liquor and cannabis board may develop and offer a class for retail clerks and use this class in lieu of a monetary penalty for the clerk's first violation.

(7) The liquor and cannabis board may issue a cease and desist order to any person who is found by the liquor and cannabis board to have violated or intending to violate the provisions of this chapter, RCW 26.28.080, 82.24.500, or 82.26.190 requiring such person to cease specified conduct that is in violation. The issuance of a cease and desist order does not preclude the imposition of other sanctions authorized by this statute or any other provision of law.

(8) The liquor and cannabis board may seek injunctive relief to enforce the provisions of RCW 26.28.080, 82.24.500, 82.26.190 or this chapter. The liquor and cannabis board may initiate legal action to collect civil penalties imposed under this chapter if the same have not been paid within thirty days after imposition of such penalties. In any action filed by the liquor and cannabis board under this chapter, the court may, in addition to any other relief, award the liquor and cannabis board reasonable attorneys' fees and costs.

(9) All proceedings under subsections (1) through (7) of this section shall be conducted in accordance with chapter 34.05 RCW.

(10) The liquor and cannabis board may reduce or waive either the penalties or the suspension or revocation of a license, or both, as set forth in this chapter where the elements of proof are inadequate or where there are mitigating circumstances. Mitigating circumstances may include, but are not limited to, an exercise of due diligence by a retailer. Further, the board may exceed penalties set forth in this chapter based on aggravating circumstances.

Sec. 5. RCW 70.155.110 and 1993 c 507 s 12 are each amended to read as follows:

(1) The ((~~liquor control~~)) board shall, in addition to the board's other powers and authorities, have the authority to enforce the provisions of this chapter and RCW 26.28.080(((~~(4)~~))) and 82.24.500. The ((~~liquor control~~)) board shall have full power to revoke or suspend the license of any retailer or wholesaler in accordance with the provisions of RCW 70.155.100.

(2) The ((~~liquor control~~)) board and the board's authorized agents or employees shall have full power and authority to enter any place of business where tobacco products are sold for the purpose of enforcing the provisions of this chapter.

(3)(a) For the purpose of enforcing the provisions of this chapter and RCW 26.28.080(((~~(4)~~))) and 82.24.500, ((~~a peace officer or~~)) an enforcement officer of the ((~~liquor control~~)) board who has reasonable grounds to believe a person

observed by the officer in proximity to a retailer licensee under chapters 82.24 and 82.26 RCW who is purchasing, attempting to purchase, or in possession of tobacco products is under the age of eighteen years of age, may detain such person in proximity to such retailer for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. Further, tobacco products possessed by persons under the age of eighteen years of age are considered contraband and may be seized by ((~~a peace officer or~~)) an enforcement officer of the ((~~liquor control~~)) board.

(b) Any enforcement officer who detains a person for the purpose of enforcing the provisions of this chapter and RCW 26.28.080 and 82.24.500 must collect the following information for each fiscal year since 2018:

(i) The total number of interactions where an enforcement officer detained a person;

(ii) Information on the nature of each interaction, including the duration of the interaction, the justification for the interaction, the number of such persons who were under 18 years of age, the number of such persons who were over 18 but under 21 years of age, and whether any citation or warning was issued;

(iii) How many interactions converted to administrative violation notices; and

(iv) How many of the interactions and administrative violation notices converted to retailer education and violations.

(c) The board must compile the information collected pursuant to (b) of this subsection, along with any associated demographic data in the possession of the board, and conduct a comparative analysis of all interactions of enforcement officers with persons detained for the purpose of enforcing Title 66 RCW and chapter 69.50 RCW into a statewide report and provide the report to the appropriate committees of the legislature by December 1, 2023, and annually thereafter.

(d) All enforcement officers of the board who enforce the provisions of this section and will have interactions with persons under the age of 18 years old must begin receiving training from the United States department of justice office of juvenile justice and delinquency prevention prior to July 1, 2024.

(e) For the purposes of this subsection, "proximity" means 100 feet or less.

(4) The ((~~liquor control~~)) board may work with local county health departments or districts and local law enforcement agencies to conduct random, unannounced, inspections to assure compliance.

Sec. 6. RCW 70.155.120 and 2019 c 415 s 979 and 2019 c 15 s 10 are each reenacted and amended to read as follows:

(1) The youth tobacco and vapor products prevention account is created in the state treasury. All fees collected pursuant to RCW 70.155.100(3)(b), 82.24.520, 82.24.530, 82.26.160, and 82.26.170 and funds collected by the ((~~liquor and cannabis~~)) board from the imposition of monetary penalties shall be deposited into this account, except that ((~~ten~~)) 10 percent of all such fees and penalties shall be deposited in the state general fund.

(2) Moneys appropriated from the youth tobacco and vapor products prevention account to the department of health shall be used by the department of health for implementation of this chapter, including collection and reporting of data regarding enforcement and the extent to which access to tobacco products and vapor products by youth has been reduced.

(3) The department of health shall enter into interagency agreements with the ((~~liquor and cannabis~~)) board to pay the costs incurred, up to ((~~thirty~~)) 30 percent of available funds, in carrying out its enforcement responsibilities under this chapter. Such agreements shall set forth standards of enforcement, consistent with the funding available, so as to reduce the extent to which tobacco products and vapor products are available to individuals under the age of ((~~twenty-one~~)) 21. The agreements shall also set forth requirements for data reporting by the ((~~liquor and cannabis~~)) board regarding its enforcement activities. During the 2019-2021 fiscal biennium, the department of health shall pay the costs incurred, up to ((~~twenty-three~~)) 23 percent of available funds, in carrying out its enforcement responsibilities.

(4) The department of health, the ((~~liquor and cannabis~~)) board, and the department of revenue shall enter into an interagency agreement for payment of the cost of administering the tobacco retailer licensing system and for the provision of quarterly documentation of tobacco wholesaler, retailer, and vending machine names and locations.

(5) The department of health shall, within up to ((~~seventy~~)) 70 percent of available funds, provide grants to local health departments or other local community agencies to develop and implement coordinated tobacco and vapor product intervention strategies to prevent and reduce tobacco and vapor product use by youth. During the 2019-2021 fiscal biennium, the department of health shall, within up to ((~~seventy seven~~)) 77 percent of available funds, provide grants to local health departments or other local community agencies to develop and implement coordinated tobacco and vapor product intervention strategies to prevent and reduce tobacco and vapor product use by youth.

Sec. 7. RCW 70.345.160 and 2016 sp.s. c 38 s 24 are each amended to read as follows:

(1) The board must have, in addition to the board's other powers and authorities, the authority to enforce the provisions of this chapter.

(2) The board and the board's authorized agents or employees have full power and authority to enter any place of business where vapor products are sold for the purpose of enforcing the provisions of this chapter.

(3)(a) For the purpose of enforcing the provisions of this chapter, ((~~a peace officer or~~)) an enforcement officer of the board who has reasonable grounds to believe a person observed by the officer in proximity to a retailer licensee under this chapter and chapter 82.25 RCW who is purchasing, attempting to purchase, or in possession of vapor products is under eighteen years of age, may detain such person in proximity to such retailer for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. Further, vapor products possessed by persons under eighteen years of age are considered contraband and may be seized by ((~~a peace officer or~~)) an enforcement officer of the board.

(b) Any enforcement officer who detains a person for the purpose of enforcing the provisions of this chapter and RCW 26.28.080 and 82.24.500 must collect the following information for each fiscal year since 2018:

(i) The total number of interactions where an enforcement officer detained a person;

(ii) Information on the nature of each interaction, including the duration of the interaction, the justification for the interaction, the number of such persons

who were under 18 years of age, the number of such persons who were over 18 but under 21 years of age, and whether any citation or warning was issued;

(iii) How many interactions converted to administrative violation notices; and

(iv) How many of the interactions and administrative violation notices converted to retailer education and violations.

(c) The board must compile the information collected pursuant to (b) of this subsection, along with any associated demographic data in the possession of the board, and conduct a comparative analysis of all interactions of enforcement officers with persons detained for the purpose of enforcing Title 66 RCW and chapter 69.50 RCW into a statewide report and provide the report to the appropriate committees of the legislature by December 1, 2023, and annually thereafter.

(d) All enforcement officers of the board who enforce the provisions of this section and will have interactions with persons under the age of 18 years old must begin receiving training from the United States department of justice office of juvenile justice and delinquency prevention prior to July 1, 2024.

(e) For the purposes of this subsection, "proximity" means 100 feet or less.

(4) The board may work with local county health departments or districts and local law enforcement agencies to conduct random, unannounced, inspections to assure compliance.

(5) The board, law enforcement, or a local health department may, with parental authorization, include persons under the age of 18 in compliance activities.

(6) Upon a determination by the secretary of health or a local health jurisdiction that a vapor product may be injurious to human health or poses a significant risk to public health:

(a) The board, in consultation with the department of health and local county health jurisdictions, may cause a vapor product substance or solution sample, purchased or obtained from any vapor product retailer, distributor, or delivery sale licensee, to be analyzed by an analyst appointed or designated by the board;

(b) If the analyzed vapor product contains an ingredient, substance, or solution present in quantities injurious to human health or posing a significant risk to public health, as determined by the secretary of health or a local health jurisdiction, the board may suspend the license of the retailer or delivery sale licensee unless the retailer or delivery sale licensee agrees to remove the product from sales; and

(c) If upon a finding from the secretary of health or local health jurisdiction that the vapor product poses an injurious risk to public health or significant public health risk, the retailer or delivery sale licensee does not remove the product from sale, the secretary of health or local health officer may file for an injunction in superior court prohibiting the sale or distribution of that specific vapor product substance or solution.

((~~(6)~~)) (7) Nothing in subsection ((~~(5)~~)) (6) of this section permits a total ban on the sale or use of vapor products.

NEW SECTION. **Sec. 8.** Nothing in this act shall be interpreted to limit the ability of a peace officer or an enforcement officer of the liquor and cannabis board to enforce RCW 26.28.080 and 82.24.500.

Passed by the Senate April 17, 2023.
Passed by the House April 7, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 399

[Senate Bill 5369]

CONSUMER PRODUCTS—POLYCHLORINATED BIPHENYLS—PETITION TO EPA

AN ACT Relating to reassessing standards for polychlorinated biphenyls in consumer products; adding a new section to chapter 70A.350 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that polychlorinated biphenyls, or PCBs, are a hazardous chemical class that have been identified as carcinogenic, a developmental toxicant, toxic to aquatic organisms, and persistent and bioaccumulative. According to the United States environmental protection agency, PCBs are probable human carcinogens and may have serious and potential effects on the immune system, reproductive system, nervous system, and endocrine system.

(2) Humans and other organisms can be exposed to PCBs in a number of ways. PCBs can be released into the environment from hazardous waste sites, illegal dumping, or disposal of PCB wastes or PCB-containing products in areas or landfills not designed to handle hazardous waste, leaks, or releases from electrical transformers containing PCBs, and wastewater discharges. Once PCBs are released, the chemicals do not readily break down in the environment and can cycle for long periods between air, water, and soil. PCBs can accumulate in leaves and above-ground parts of plants and food crops, and they are also taken up into the bodies of small organisms and fish, resulting in potential exposure for people and organisms that ingest the fish.

(3) In 1979, the United States banned the production of PCBs under the toxic substances control act. However, the United States environmental protection agency's regulations implementing the toxic substances control act for PCBs allow some inadvertent generation of PCBs to occur in excluded manufacturing processes. These manufacturing by-product PCBs have been identified in wastewater, sediments, and air in numerous locations and have been positively identified in the testing of new products.

(4) The legislature finds that the state has done much to address PCB contamination, including cleanup, permitting, stormwater management, and fish advisories. In addition, the United States environmental protection agency, Washington state, and the Spokane tribe of Indians have established PCB water quality standards to protect human health and the environment. These standards are critical for addressing release and exposure from legacy and nonlegacy PCBs. However, the standards cannot be achieved with currently available water treatment technology if the waste stream continues to include new sources of PCBs allowable under the toxic substances control act at levels measured in products such as paints, inks, and pigments that are billions of times higher than applicable water quality standards. While the United States environmental protection agency has restored a human health criteria standard of seven parts

per quadrillion in Washington waters, the toxic substances control act limit for PCBs in products is an annual average of 25 parts per million, with a maximum 50 parts per million adjusted total PCBs. Therefore, the legislature finds that nonlegacy PCB contamination may most effectively be managed upstream at the product and process source as opposed to downstream facilities at the end of the product life cycle. The toxic substances control act standard for inadvertent PCBs does not reflect current science on limits needed to protect human health and the environment and is overdue for revision.

(5) While previous industry analysis of toxic substances control act rule making has asserted negative impacts and infeasibility in disallowing by-product PCBs, the legislature finds that safer, feasible, and available alternatives to PCB-containing paints and printing inks now exist, as determined by the department in its June 2022 *Safer Products for Washington* report. Moreover, since safer and available products and processes to produce paints and printing inks do exist, the legislature finds that use of manufacturing processes resulting in products with PCB by-products is not inadvertent, but intentional, and constitutes a use of the chemical within the product.

(6) Therefore, the legislature intends to direct the department of ecology to petition the United States environmental protection agency to reassess its PCB regulations under the toxic substances control act.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.350 RCW to read as follows:

(1) The department must petition the United States environmental protection agency to reassess its regulations on excluded manufacturing processes from prohibitions on manufacturing, processing, distribution in commerce, and use of PCBs and PCB items under 40 C.F.R. Sec. 761.3 for the purpose of eliminating or reducing the presence of PCBs in consumer products.

(2) In petitioning the United States environmental protection agency, the department must include legislative findings in section 1 of this act and information on:

(a) Health effects of PCBs;

(b) Release and exposure of PCBs including, but not limited to, concentrations of PCBs measured in consumer products and in state waters, soils, and fish tissue;

(c) Safer alternatives for consumer products that contain PCBs, including the availability and feasibility of alternatives; and

(d) Other relevant data or findings as determined by the department.

(3) The department is not required to generate new data and may use previously compiled data and findings developed in the performance of duties under this section.

(4) The department may consult with the department of health and other relevant state agencies in developing the petition under this section.

(5) To the extent practicable, the department must seek completion of the petition review by January 1, 2025.

Passed by the Senate April 23, 2023.

Passed by the House April 22, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 400

[Substitute Senate Bill 5389]

PRACTICE OF OPTOMETRY—MODIFICATION

AN ACT Relating to the practice of optometry, including expanding the optometric scope of practice to include specified procedures not including the use of lasers, requiring a licensing endorsement to perform these procedures that is based upon mandated educational criteria and hands-on training, and amending the board of optometry's operating procedures; amending RCW 18.53.010, 18.54.050, and 18.54.070; adding a new section to chapter 18.54 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.53.010 and 2015 c 113 s 1 are each amended to read as follows:

(1) The practice of optometry is defined as the examination of the human eye, the examination and ascertaining any defects of the human vision system, and the analysis of the process of vision. The practice of optometry may include, but not necessarily be limited to, the following:

(a) The employment of any objective or subjective means or method, including the use of drugs, for diagnostic and therapeutic purposes by those licensed under this chapter and who meet the requirements of subsections ((~~(2)~~)) (4) and ((~~(3)~~)) (6) of this section, and the use of any diagnostic instruments or devices for the examination or analysis of the human vision system, the measurement of the powers or range of human vision, or the determination of the refractive powers of the human eye or its functions in general; ((~~and~~))

(b) The prescription and fitting of lenses, prisms, therapeutic or refractive contact lenses and the adaption or adjustment of frames and lenses used in connection therewith; ((~~and~~))

(c) The prescription and fitting of contact lenses for the purpose of altering refractive error or to treat eye disease;

(d) The prescription and provision of visual therapy, neuro-optometry rehabilitation, therapeutic aids, subnormal vision therapy, orthoptics, and other optical devices; ((~~and~~

~~(d)~~)) (e) The ascertainment of the perceptive, neural, muscular, or pathological condition of the visual system; ((~~and~~

~~(e)~~)) (f) The adaptation of prosthetic eyes;

(g) Ordering necessary diagnostic lab or imaging tests including, but not limited to, finger-stick testing and collecting samples for culturing;

(h) Dispensing of medication samples to initiate treatment is permitted; and

(i) Removal of nonpenetrating foreign bodies, debridement of tissue, epilation of misaligned eyelashes, placement of punctal or lacrimal plugs, including devices containing pharmaceutical agents implanted in the lacrimal system, dilation and irrigation of the lacrimal system, nonlaser light therapy, and placement of biologic membranes.

(2)(a) The practice of optometry may include the following advanced procedures:

(i) Common complication of the lids, lashes, and lacrimal systems;

(ii) Chalazion management, including injection and excision;

(iii) Injections, including intramuscular injections of epinephrine and subconjunctival and subcutaneous injections of medications;

(iv) Management of lid lesions, including intralesional injection of medications;

(v) Preoperative and postoperative care related to these procedures;

(vi) Use of topical and injectable anesthetics; and

(vii) Eyelid surgery, excluding any cosmetic surgery or surgery requiring the use of general anesthesia.

(b) An optometrist shall not perform any advanced procedures listed in this subsection until he or she receives a license endorsement issued by the optometry board. The board may not issue an endorsement unless the licensed optometrist meets the educational, training, and competence criteria set forth in this section.

(3) The practice of optometry does not include:

(a) Performing retinal laser procedures, laser-assisted in situ keratomileus, photorefractive keratectomy, laser epithelial keratomileusis, or any forms of refractive surgery, other than light adjustable lens procedures;

(b) Penetrating keratoplasty, corneal transplant, or lamellar keratoplasty;

(c) Administering intravenous or general anesthesia;

(d) Performing surgery with general anesthesia;

(e) Providing laser or nonlaser injections into the vitreous chamber of the eye to treat any macular or retinal disease;

(f) Performing surgery related to the removal of the eye from a living human being;

(g) Performing surgery requiring a full thickness incision or excision of the cornea or sclera other than paracentesis in an emergency situation requiring immediate reduction of the pressure inside of the eye;

(h) Performing surgery requiring incision of the iris and ciliary body, including iris diathermy or cryotherapy;

(i) Performing surgery requiring incision of the vitreous or retina;

(j) Performing surgical extraction of the crystalline lens;

(k) Performing surgical intraocular implants;

(l) Performing incisional or excisional surgery of the extraocular muscles;

(m) Performing surgery of the eyelid for malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, or tarsorrhaphy;

(n) Performing surgery of the bony orbit, including orbital implants;

(o) Performing incisional or excisional surgery of the lacrimal system other than lacrimal probing or related procedures;

(p) Performing surgery requiring full thickness conjunctivoplasty with graft or flap;

(q) Performing any surgical procedure that does not provide for the correction and relief of ocular abnormalities;

(r) Suturing;

(s) Providing an incision into the eyeball;

(t) Providing sub-tenon, retrobulbar, intraorbital, or botulinum toxin injection; or

(u) Performing pterygium surgery.

(4)(a) Those persons using topical and oral drugs for diagnostic and therapeutic purposes in the practice of optometry shall have a minimum of

((~~sixty~~)) 60 hours of didactic and clinical instruction in general and ocular pharmacology as applied to optometry, as established by the optometry board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States ((~~office of education or the council on postsecondary~~)) department of education or the council on higher education accreditation to qualify for certification by the optometry board of Washington to use drugs for diagnostic and therapeutic purposes.

(b) Those persons using or prescribing topical drugs for therapeutic purposes in the practice of optometry must be certified under (a) of this subsection, and must have an additional minimum of ((~~seventy five~~)) 75 hours of didactic and clinical instruction as established by the optometry board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States ((~~office of education or the council on postsecondary~~)) department of education or the council on higher education accreditation to qualify for certification by the optometry board of Washington to use drugs for therapeutic purposes.

(c) Those persons using or prescribing drugs administered orally for diagnostic or therapeutic purposes in the practice of optometry shall be certified under (b) of this subsection, and shall have an additional minimum of ((~~sixteen~~)) 16 hours of didactic and eight hours of supervised clinical instruction as established by the optometry board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States ((~~office of education or the council on postsecondary~~)) department of education or the council on higher education accreditation to qualify for certification by the optometry board of Washington to administer, dispense, or prescribe oral drugs for diagnostic or therapeutic purposes.

(d) Those persons administering epinephrine by injection for treatment of anaphylactic shock in the practice of optometry must be certified under (b) of this subsection and must have an additional minimum of four hours of didactic and supervised clinical instruction, as established by the optometry board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States ((~~office of education or the council on postsecondary~~)) department of education or the council on higher education accreditation to qualify for certification by the optometry board to administer epinephrine by injection.

(e) Such course or courses shall be the fiscal responsibility of the participating and attending optometrist.

(f)(((~~i~~))) All persons receiving their initial license under this chapter on or after January 1, 2007, must be certified under (a), (b), (c), and (d) of this subsection.

(((~~ii) All persons licensed under this chapter on or after January 1, 2009, must be certified under (a) and (b) of this subsection.~~

~~(iii) All persons licensed under this chapter on or after January 1, 2011, must be certified under (a), (b), (c), and (d) of this subsection.~~

~~(3)~~))) (5)(a) To receive a license endorsement to perform the advanced procedures listed in this section, a licensed optometrist must:

(i) Successfully complete postgraduate courses as designated by the optometry board that provide adequate training on those procedures. Any course that is offered by an institution of higher education accredited by those agencies

recognized by the United States department of education or the council on higher education accreditation and approved by the optometry board to qualify for an endorsement to perform advanced procedures must contain supervised hands-on experience with live patients, or be supplemented by a residency, internship, or other supervised program that offers hands-on experience with live patients;

(ii) Successfully complete a national examination for advanced procedures, including the lasers and surgical procedures examination, injections skill examination, or other equivalent examination as designated by the optometry board; and

(iii) Enter into an agreement with a qualified physician licensed under chapter 18.71 RCW or an osteopathic physician licensed under chapter 18.57 RCW for rapid response if complications occur during an advanced procedure.

(b) Upon completion of the above listed requirements, proof of training shall be submitted to the optometry board for approval. No optometrist may perform the advanced procedures listed in subsection (2) of this section until they have received confirmation of the endorsement in writing.

(6) The optometry board shall establish a list of topical drugs for diagnostic and treatment purposes limited to the practice of optometry, and no person licensed pursuant to this chapter shall prescribe, dispense, purchase, possess, or administer drugs except as authorized and to the extent permitted by the optometry board.

(((~~(4)~~))) (7) The optometry board must establish a list of oral Schedule III through V controlled substances and any oral legend drugs, with the approval of and after consultation with the pharmacy quality assurance commission. The optometry board may include Schedule II hydrocodone combination products consistent with subsection (((~~(6)~~))) (9) of this section. No person licensed under this chapter may use, prescribe, dispense, purchase, possess, or administer these drugs except as authorized and to the extent permitted by the optometry board. ((~~No optometrist may use, prescribe, dispense, or administer oral corticosteroids~~)) To prescribe oral corticosteroids for more than seven days, an optometrist must consult with a licensed physician.

(a) The optometry board, with the approval of and in consultation with the pharmacy quality assurance commission, must establish, by rule, specific guidelines for the prescription and administration of drugs by optometrists, so that licensed optometrists and persons filling their prescriptions have a clear understanding of which drugs and which dosages or forms are included in the authority granted by this section.

(b) An optometrist may not((~~:~~

~~(i) Prescribe~~)) prescribe, dispense, or administer a controlled substance for more than seven days in treating a particular patient for a single trauma, episode, or condition or for pain associated with or related to the trauma, episode, or condition((~~; or~~

~~(ii) Prescribe an oral drug within ninety days following ophthalmic surgery unless the optometrist consults with the treating ophthalmologist~~)).

(c) If treatment exceeding the limitation in (b)(((~~(i)~~))) of this subsection is indicated, the patient must be referred to a physician licensed under chapter 18.71 RCW.

(d) The prescription or administration of drugs as authorized in this section is specifically limited to those drugs appropriate to treatment of diseases or conditions of the human eye and the adnexa that are within the scope of practice of optometry. The prescription or administration of drugs for any other purpose is not authorized by this section.

(((~~(5)~~))) (8) The optometry board shall develop a means of identification and verification of optometrists certified to ((~~use therapeutic drugs for the purpose of issuing prescriptions as authorized by this section~~)) perform advanced procedures.

(((~~(6)~~))) (9) Nothing in this chapter may be construed to authorize the use, prescription, dispensing, purchase, possession, or administration of any Schedule I or II controlled substance, except Schedule II hydrocodone combination products. The provisions of this subsection must be strictly construed.

(((~~(7) With the exception of the administration of epinephrine by injection for the treatment of anaphylactic shock, no injections or infusions may be administered by an optometrist.~~

~~(8)~~))) (10) Nothing in this chapter may be construed to authorize optometrists to perform ophthalmic surgery. Ophthalmic surgery is defined as any invasive procedure in which human tissue is cut, ablated, or otherwise penetrated by incision, injection, laser, ultrasound, or other means, in order to: Treat human eye diseases; alter or correct refractive error; or alter or enhance cosmetic appearance. Nothing in this chapter limits an optometrist's ability to use diagnostic instruments utilizing laser or ultrasound technology. Ophthalmic surgery, as defined in this subsection, does not include the advanced procedures listed in subsection (2)(a) of this section, removal of superficial ocular foreign bodies, epilation of misaligned eyelashes, placement of punctal or lacrimal plugs, diagnostic dilation and irrigation of the lacrimal system, orthokeratology, prescription and fitting of contact lenses with the purpose of altering refractive error, or other similar procedures within the scope of practice of optometry.

(11) In a public health emergency, the state health officer may authorize licensed optometrists to administer inoculations for systemic health reasons.

(12)(a) Any optometrist authorized by the optometry board shall be permitted to purchase diagnostic pharmaceutical agents for use in the practice of optometry. Any optometrist authorized by the optometry board shall be permitted to prescribe therapeutic pharmaceutical agents in the practice of optometry. Optometrists authorized by the optometry board to purchase pharmaceutical agents shall obtain them from licensed wholesalers or pharmacists, using prescriptions or chart orders placed in the same or similar manner as any physician or other practitioner so authorized. Purchases shall be limited to those pharmaceutical agents specified in this section, based upon the authority conferred upon the optometrist by the optometry board consistent with the educational qualifications of the optometrist as established in this section.

(b) Diagnostic and therapeutic pharmaceutical agents are any prescription or nonprescription drug delivered via any route of administration used or prescribed for the diagnosis, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa. Diagnostic and therapeutic pharmaceutical agents do not include Schedule I and Schedule II drugs, except for hydrocodone combination products.

Sec. 2. RCW 18.54.050 and 2011 c 336 s 491 are each amended to read as follows:

The board must meet at least once yearly or more frequently upon call of the chair or the secretary of health at such times and places as the chair or the secretary of health may designate by giving three days' notice or as otherwise required by RCW 42.30.075. A full record of the board's proceedings shall be kept in the office of the board and shall be open to inspection at all reasonable times.

Sec. 3. RCW 18.54.070 and 1995 c 198 s 7 are each amended to read as follows:

The board has the following powers and duties:

(1) To develop and administer, or approve, or both, a licensure examination. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The board shall adopt rules and regulations to promote safety, protection, and the welfare of the public, to carry out the purposes of this chapter, to aid the board in the performance of its powers and duties, and to govern the practice of optometry. The administrative regulations shall include the classification and licensure of optometrists by examination or credentials, retirement of a license, and reinstatement of a license.

(3) The board shall have the authority to provide rule making regarding the allowable procedures and their educational requirements within the confines of this chapter and chapter 18.53 RCW.

(4) The board shall keep a register containing the name, address, license number, email, and phone number of every person licensed to practice optometry in this state to the best of their ability.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.54 RCW to read as follows:

(1) The board shall develop a process for an optometrist that has received an endorsement to perform advanced procedures authorized under RCW 18.53.010 to submit information to the board on the outcome, including any complication or adverse event, of every advanced procedure that the optometrist completed in the previous year. An optometrist with a license endorsement must file this information in the manner determined by the board at the time of license renewal. All information submitted under this subsection is confidential and may not be disclosed under chapter 42.56 RCW.

(2) By December 1, 2024, and annually thereafter, the board in coordination with the department of health must analyze and report on the outcomes of the advanced procedures authorized in RCW 18.53.010 during the previous year. The report should include any complications or adverse events related to the performance of advanced procedures. The data should be aggregated and not identify any individual provider or facility and may not reveal any confidential information. The department of health must make this report publicly available on its website.

(3) This section expires December 31, 2028.

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CHAPTER 401

[Substitute Senate Bill 5398]

DOMESTIC VIOLENCE VICTIM SERVICES AGENCIES—FUNDING ALLOCATION—WORK GROUP

AN ACT Relating to domestic violence funding allocation; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The domestic violence services program within the department of social and health services shall convene a work group to review and update the formula used to determine the allocation of funding for domestic violence victim services agencies.

(2) The work group shall include, but is not limited to, representatives of the following:

(i) The department of social and health services;

(ii) The office of crime victims advocacy;

(iii) The Washington state coalition against domestic violence;

(iv) A minimum of nine department contracted domestic violence victim services agencies, three each from the department of social and health services' regions 1, 2, and 3 representing both small and large capacity shelters; and

(v) Three at-large community-based or tribal domestic violence victim services providers.

(3) The department of social and health services may hire external consultants, as needed, to assist with the goals of the work group.

(4) By December 1, 2024, the work group shall develop funding allocation recommendations and, in compliance with RCW 43.01.036, provide a copy of the recommendations to the appropriate committees of the legislature.

(5) While the final decision regarding whether to implement the funding allocation recommendations of the work group rests with the department, implementation of any of the funding allocation recommendations shall be effective starting July 1, 2025.

(6) This section expires August 1, 2025.

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CHAPTER 402

[Senate Bill 5403]

SCHOOL DISTRICT DEPRECIATION SUBFUNDS

AN ACT Relating to establishing school district depreciation subfunds for the purposes of preventative maintenance; and amending RCW 28A.320.330.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.320.330 and 2021 c 332 s 7045 are each amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1)(a) A general fund for the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(b) By the 2018-19 school year, a local revenue subfund of its general fund to account for the financial operations of a school district that are paid from local revenues. The local revenues that must be deposited in the local revenue subfund are enrichment levies and transportation vehicle levies collected under RCW 84.52.053, local effort assistance funding received under chapter 28A.500 RCW, and other school district local revenues including, but not limited to, grants, donations, and state and federal payments in lieu of taxes, but do not include other federal revenues, or local revenues that operate as an offset to the district's basic education allocation under RCW 28A.150.250. School districts must track expenditures from this subfund separately to account for the expenditure of each of these streams of revenue by source, and must provide the supplemental expenditure schedule under (c) of this subsection, and any other supplemental expenditure schedules required by the superintendent of public instruction or state auditor, for purposes of RCW 43.09.2856.

(c) Beginning in the 2019-20 school year, the superintendent of public instruction must require school districts to provide a supplemental expenditure schedule by revenue source that identifies the amount expended by object for each of the following supplementary enrichment activities beyond the state funded amount:

(i) Minimum instructional offerings under RCW 28A.150.220 or 28A.150.260 not otherwise included on other lines;

(ii) Staffing ratios or program components under RCW 28A.150.260, including providing additional staff for class size reduction beyond class sizes allocated in the prototypical school model and additional staff beyond the staffing ratios allocated in the prototypical school formula;

(iii) Program components under RCW 28A.150.200, 28A.150.220, or 28A.150.260, not otherwise included on other lines;

(iv) Program components to support students in the program of special education;

(v) Program components of professional learning, as defined by RCW 28A.415.430, beyond that allocated under RCW 28A.150.415;

(vi) Extracurricular activities;

(vii) Extended school days or an extended school year;

(viii) Additional course offerings beyond the minimum instructional program established in the state's statutory program of basic education;

(ix) Activities associated with early learning programs;

(x) Activities associated with providing the student transportation program;

(xi) Any additional salary costs attributable to the provision or administration of the enrichment activities allowed under RCW 28A.150.276;

(xii) Additional activities or enhancements that the office of the superintendent of public instruction determines to be a documented and demonstrated enrichment of the state's statutory program of basic education under RCW 28A.150.276; and

(xiii) All other costs not otherwise identified in other line items.

(d) For any salary and related benefit costs identified in (c)(xi), (xii), and (xiii) of this subsection, the school district shall maintain a record describing how these expenditures are documented and demonstrated enrichment of the state's statutory program of basic education. School districts shall maintain these records until the state auditor has completed the audit under RCW 43.09.2856.

(e) For school districts of the second class as defined by RCW 28A.300.065, a depreciation subfund for the school district to reserve funds for future facility and equipment needs. Up to two percent of a second class school district's general fund may be deposited each fiscal year into the depreciation subfund for the purpose of preventative maintenance or emergency facility needs. The preventative maintenance must be necessary to realize the originally anticipated useful life of a building or facility and include: Exterior painting of facilities; replacement or renovation of roofing, exterior walls, windows, heating, air conditioning and ventilation systems, floor coverings in classrooms and common areas, and electrical and plumbing systems; and renovation of playfields, athletic facilities, and other district real property. School districts of the second class, subject to applicable public works bid limits, may use school district employees to perform preventative maintenance with moneys from the depreciation subfund, but moneys from the depreciation subfund may not be used for employee compensation that is unrelated to this subsection (1)(e).

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life. Such renovation and replacement shall include, but shall not be limited to, major repairs, exterior painting of facilities, replacement and refurbishment of roofing, exterior walls, windows, heating and ventilating systems, floor covering in classrooms and public or common areas, and electrical and plumbing systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f)(i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(g) Major equipment repair, painting of facilities, and other major preventative maintenance purposes. However, to the extent the funds are used for the purpose under this subsection (2)(g), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations. Based on the district's most recent two-year history of general fund maintenance expenditures, funds used for this purpose may not replace routine annual preventive maintenance expenditures made from the district's general fund.

(h) During the 2021-2023 fiscal biennium, renovation and replacement of facilities and systems, purchase or installation of items of equipment and furniture, including maintenance vehicles and machinery, and other preventative maintenance or infrastructure improvement purposes.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forestland revenues

that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

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CHAPTER 403

[Substitute Senate Bill 5436]

FIREARMS—TRANSFERS TO MUSEUMS AND HISTORICAL SOCIETIES

AN ACT Relating to transfers of firearms to museums and historical societies; and amending RCW 9.41.113.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.41.113 and 2019 c 3 s 11 are each amended to read as follows:

(1) All firearm sales or transfers, in whole or part in this state including without limitation a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, shall be subject to background checks unless specifically exempted by state or federal law. The background check requirement applies to all sales or transfers including, but not limited to, sales and transfers through a licensed dealer, at gun shows, online, and between unlicensed persons.

(2) No person shall sell or transfer a firearm unless:

(a) The person is a licensed dealer;

(b) The purchaser or transferee is a licensed dealer; or

(c) The requirements of subsection (3) of this section are met.

(3) Where neither party to a prospective firearms transaction is a licensed dealer, the parties to the transaction shall complete the sale or transfer through a licensed dealer as follows:

(a) The seller or transferor shall deliver the firearm to a licensed dealer to process the sale or transfer as if it is selling or transferring the firearm from its inventory to the purchaser or transferee, except that the unlicensed seller or transferor may remove the firearm from the business premises of the licensed dealer while the background check is being conducted. If the seller or transferor removes the firearm from the business premises of the licensed dealer while the background check is being conducted, the purchaser or transferee and the seller or transferor shall return to the business premises of the licensed dealer and the seller or transferor shall again deliver the firearm to the licensed dealer prior to completing the sale or transfer.

(b) Except as provided in (a) of this subsection, the licensed dealer shall comply with all requirements of federal and state law that would apply if the licensed dealer were selling or transferring the firearm from its inventory to the

purchaser or transferee, including but not limited to conducting a background check on the prospective purchaser or transferee in accordance with federal and state law requirements, fulfilling all federal and state recordkeeping requirements, and complying with the specific requirements and restrictions on semiautomatic assault rifles in chapter 3, Laws of 2019.

(c) The purchaser or transferee must complete, sign, and submit all federal, state, and local forms necessary to process the required background check to the licensed dealer conducting the background check.

(d) If the results of the background check indicate that the purchaser or transferee is ineligible to possess a firearm, then the licensed dealer shall return the firearm to the seller or transferor.

(e) The licensed dealer may charge a fee that reflects the fair market value of the administrative costs and efforts incurred by the licensed dealer for facilitating the sale or transfer of the firearm.

(4) This section does not apply to:

(a) A transfer between immediate family members, which for this subsection shall be limited to spouses, domestic partners, parents, parents-in-law, children, siblings, siblings-in-law, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles, that is a bona fide gift or loan;

(b) The sale or transfer of an antique firearm;

(c) A temporary transfer of possession of a firearm if such transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if:

(i) The temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and

(ii) The person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(d) A temporary transfer of possession of a firearm if: (i) The transfer is intended to prevent suicide or self-inflicted great bodily harm; (ii) the transfer lasts only as long as reasonably necessary to prevent death or great bodily harm; and (iii) the firearm is not utilized by the transferee for any purpose for the duration of the temporary transfer;

(e) Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer, United States marshal, member of the armed forces of the United States or the national guard, or federal official;

(f) A federally licensed gunsmith who receives a firearm solely for the purposes of service or repair, or the return of the firearm to its owner by the federally licensed gunsmith;

(g) The temporary transfer of a firearm (i) between spouses or domestic partners; (ii) if the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the jurisdiction in which such range is located; (iii) if the temporary transfer occurs and the transferee's possession of the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance; (iv) to a person who is under ((~~eighteen~~)) 18 years of age for lawful hunting, sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from

possessing firearms; (v) under circumstances in which the transferee and the firearm remain in the presence of the transferor; or (vi) while hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting, provided that any temporary transfer allowed by this subsection is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(h) A person who (i) acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm or (ii) acquired a pistol by operation of law upon the death of the former owner of the pistol within the preceding ((~~sixty~~)) 60 days. At the end of the ((~~sixty~~)) 60-day period, the person must either have lawfully transferred the pistol or must have contacted the department of licensing to notify the department that he or she has possession of the pistol and intends to retain possession of the pistol, in compliance with all federal and state laws; ((~~or~~))

(i) A sale or transfer when the purchaser or transferee is a licensed collector and the firearm being sold or transferred is a curio or relic; or

(j)(i) A transfer, loan, gift, or bequest to a museum or historical society, or the return of loaned firearm(s) to its lender from a museum or historical society, and museum personnel while acting in the scope of their official duties, provided, however, that before returning a loaned firearm to its lender, a museum or historical society or personnel of the museum or historical society must comply with the requirements of subsection (3) of this section.

(ii) For the purposes of this subsection (j), "museum or historical society" means the same as in RCW 63.26.010 and is designated as a nonprofit organization under section 501(c)(3) of the internal revenue code.

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CHAPTER 404

[Senate Bill 5459]

ELECTION INFORMATION—RECORDS REQUESTS

AN ACT Relating to requests for records containing election information; amending RCW 29A.08.105 and 42.56.420; adding a new section to chapter 42.56 RCW; creating a new section; and repealing RCW 29A.60.290.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that requests for records concerning voter registration information, election data, and systems and processes of election administration have increased exponentially over the last several years. The legislature further finds that public access to these requested records increases the public confidence in electoral processes through greater public transparency. The legislature intends to clarify responsibilities for producing records containing election information to improve the efficiency in which they are made available.

Sec. 2. RCW 29A.08.105 and 2009 c 369 s 8 are each amended to read as follows:

(1) In compliance with the Help America Vote Act (P.L. 107-252), the centralized statewide voter registration list maintained by the secretary of state is the official list of eligible voters for all elections.

(2) In all counties, the county auditor shall be the chief registrar of voters for every precinct within the county.

(3) Requests for records from, or any existing standard reports generated by, the statewide voter registration database must be submitted to and fulfilled by the secretary of state per Title 42 RCW. If a county elections office receives a request for records from, or any existing standard reports generated by, the statewide voter registration database, the county elections office is not required to produce any records in response to the request, but shall, by the deadline set forth in RCW 42.56.520, direct the requestor to submit the request to the secretary of state.

Sec. 3. RCW 42.56.420 and 2022 c 140 s 1 are each amended to read as follows:

The following information relating to security is exempt from disclosure under this chapter:

(1) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(b) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism;

(2) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, or secure facility for persons civilly confined under chapter 71.09 RCW, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility, secure facility for persons civilly confined under chapter 71.09 RCW, or any individual's safety;

(3) Information compiled by school districts or schools in the development of their comprehensive safe school plans under RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school;

(4) Information regarding the public and private infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system

vulnerabilities, and other such information the release of which may increase risk to the confidentiality, integrity, or availability of security, information technology infrastructure, or assets;

(5) The system security and emergency preparedness plan required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180; and

(6) Personally identifiable information of employees, and other security information, of a private cloud service provider that has entered into a criminal justice information services agreement as contemplated by the United States department of justice criminal justice information services security policy, as authorized by 28 C.F.R. Part 20((~~; and~~

~~(7)(a) In addition to the information in subsection (4) of this section, the following related to election security:~~

~~(i) The continuity of operations plan for election operations and any security audits, security risk assessments, or security test results, relating to physical security or cybersecurity of election operations or infrastructure. These records are exempt from disclosure in their entirety;~~

~~(ii) Those portions of records containing information about election infrastructure, election security, or potential threats to election security, the public disclosure of which may increase risk to the integrity of election operations or infrastructure; and~~

~~(iii) Voter signatures on ballot return envelopes, ballot declarations, and signature correction forms, including the original documents, copies, and electronic images; and a voter's phone number and email address contained on ballot return envelopes, ballot declarations, or signature correction forms. The secretary of state, by rule, may authorize in-person inspection of unredacted ballot return envelopes, ballot declarations, and signature correction forms in accordance with RCW 29A.04.260.~~

~~(b) The exemptions specified in (a) of this subsection do not include information or records pertaining to security breaches, except as prohibited from disclosure pursuant to RCW 29A.12.200.~~

~~(c) The exemptions specified in (a) of this subsection do not prohibit an audit authorized or required under Title 29A RCW from being conducted~~)).

NEW SECTION. **Sec. 4.** A new section is added to chapter 42.56 RCW to read as follows:

(1) The following information related to election security is exempt from disclosure under this chapter:

(a) The continuity of operations plan for election operations and any security audits, security risk assessments, or security test results, relating to physical security or cybersecurity of election operations or infrastructure. These records are exempt from disclosure in their entirety;

(b) Those portions of records, manuals, or documentation containing technical details and information regarding election infrastructure, which include the systems, software, and networks that support the election process, the public disclosure of which may increase risk to the integrity of election operations or infrastructure;

(c) Voter signatures on ballot return envelopes, ballot declarations, and signature correction forms, including the original documents, copies, and electronic images; and a voter's phone number and email address contained on

ballot return envelopes, ballot declarations, or signature correction forms. The secretary of state, by rule, may authorize in-person inspection of unredacted ballot return envelopes, ballot declarations, and signature correction forms in accordance with RCW 29A.04.260;

(d) Records regarding the infrastructure of a private entity submitted to elections officials are exempt from disclosure for a period of 25 years after the creation of the record when accompanied by an express statement that the record contains information about the private entity's infrastructure and public disclosure may increase risk to the integrity of election operations or infrastructure; and

(e) Voted ballots, voted ballot images, copies of voted ballots, photographs of voted ballots, facsimile images of voted ballots, or cast vote records of voted ballots, starting at the time of ballot return from the voter, during storage per RCW 29A.60.110, and through destruction following any retention period or litigation.

(2) The exemptions specified in subsection (1) of this section do not include information or records pertaining to security breaches, except as prohibited from disclosure under RCW 29A.12.200.

(3) The exemptions specified in subsection (1) of this section do not prohibit an audit authorized or required under Title 29A RCW from being conducted.

(4) Requests for records from or any existing reports generated by the statewide voter registration database established under RCW 29A.08.105 must be submitted to and fulfilled by the secretary of state. If a county elections office receives a request for records from or any existing reports generated by the statewide voter registration database established under RCW 29A.08.105, the county elections office is not required to produce any records in response to the request, but shall, by the deadline set forth in RCW 42.56.520, direct the requestor to submit their request to the secretary of state.

NEW SECTION. **Sec. 5.** RCW 29A.60.290 (Statewide election data and reporting standards—Secretary of state to develop, make rules) and 2016 c 134 s 1 are each repealed.

Passed by the Senate February 28, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 405

[Second Substitute Senate Bill 5502]

DEPARTMENT OF CORRECTIONS—SUBSTANCE USE DISORDER TREATMENT—GRADUATED REENTRY PROGRAM

AN ACT Relating to ensuring necessary access to substance use disorder treatment for individuals entering the graduated reentry program at the department of corrections; amending RCW 9.94A.733; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.733 and 2021 c 266 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, an offender may not participate in the graduated reentry program under this subsection unless he or she has served at least six months in total confinement in a state correctional facility.

(i) An offender subject to (a) of this subsection may serve no more than the final five months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under (a) of this subsection may not be imposed for individuals subject to a deportation order, civil commitment, or the interstate compact for adult offender supervision under RCW 9.94A.745.

(b) For offenders who meet the requirements of (b)(iii) of this subsection, an offender may not participate in the graduated reentry program unless he or she has served at least four months in total confinement in a state correctional facility.

(i) An offender under this subsection (1)(b) may serve no more than the final 18 months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under this subsection (1)(b) may not be imposed for individuals subject to a deportation order or subject to the jurisdiction of the indeterminate sentence review board.

(iii) Home detention under this subsection (1)(b) may not be imposed for offenders currently serving a term of confinement for the following offenses:

(A) Any sex offense;

(B) Any violent offense; or

(C) Any crime against a person offense in accordance with the categorization of crimes against persons outlined in RCW 9.94A.411(2).

(2) The secretary of the department may transfer an offender from a department correctional facility to home detention in the community if it is determined that the graduated reentry program is an appropriate placement and must assist the offender's transition from confinement to the community.

(3) The department and its officers, agents, and employees are not liable for the acts of offenders participating in the graduated reentry program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(4)(a) All offenders placed on home detention as part of the graduated reentry program must provide an approved residence and living arrangement prior to transfer to home detention.

(b) The department may not transfer an offender to participate in the graduated reentry program until the department has conducted a comprehensive assessment for substance use disorder. If the offender is assessed to have a substance use disorder, the department shall assist the offender in enrolling in substance use disorder treatment services at the level deemed appropriate by the assessment. Offenders transferred to participate in the graduated reentry program must begin receiving substance use disorder treatment services as soon as practicable after transfer to avoid any delays in treatment. Substance use disorder treatment services shall include, as deemed necessary by the assessment, access to medication-assisted treatment and counseling programs.

Upon transfer to the graduated reentry program, when clinically appropriate, individuals must be provided with access to self-administered fentanyl testing supplies and medications designed to reverse the effects of opioid overdose.

(5) While in the community on home detention as part of the graduated reentry program, the department must:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department shall assign based on an offender's assessed need; and

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements.

(6) The department retains the authority to return any offender serving partial confinement in the graduated reentry program to total confinement for any reason including, but not limited to, the offender's noncompliance with any sentence requirement.

(7) The department may issue rental vouchers for a period not to exceed six months for those transferring to partial confinement under this section if an approved address cannot be obtained without the assistance of a voucher.

(8) In the selection of offenders to participate in the graduated reentry program, and in setting, modifying, and enforcing the requirements of the graduated reentry program, the department is deemed to be performing a quasi-judicial function.

(9) The department shall publish a monthly report on its website with the number of offenders who were transferred during the month to home detention as part of the graduated reentry program. The department shall submit an annual report by December 1st to the appropriate committees of the legislature with the number of offenders who were transferred to home detention as part of the graduated reentry program during the prior year.

(10)(a) Beginning July 1, 2023, the following data must be collected and posted to the department's website on a monthly basis:

(i) The number of offenders who were transferred to the graduated reentry program who were assessed to have a substance use disorder during the prior calendar month; and

(ii) The number of offenders in the graduated reentry program who received during the prior 12 months:

(A) Outpatient substance use disorder treatment;

(B) Inpatient substance use disorder treatment; and

(C) Both outpatient and inpatient substance use disorder treatment.

(b) Beginning July 1, 2023, the health care authority must report monthly to the department on the number of offenders in the graduated reentry program who received substance use disorder outpatient treatment, while in the community, during the prior 12 months.

(11) The department must share data with the health care authority on offenders participating in the graduated reentry program.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 18, 2023.

Passed by the House April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 406

[Second Substitute Senate Bill 5593]

HIGH SCHOOL STUDENT DIRECTORY INFORMATION—SHARING WITH HIGHER EDUCATION INSTITUTIONS

AN ACT Relating to improving equity in the transfer of student data between K-12 schools and institutions of higher education; adding a new section to chapter 28B.10 RCW; and adding a new section to chapter 28A.150 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Institutions of higher education must enter into data-sharing agreements with the office of the superintendent of public instruction to facilitate the transfer of high school student directory information collected under section 2 of this act for the purposes of informing Washington high school students of postsecondary educational opportunities available in the state.

(2) Data-sharing agreements entered into under this section must provide for the sharing of student enrollment and outcome information from institutions of higher education, including federally designated minority serving institutions of higher education that are participating in data-sharing agreements under subsection (4) of this section, to the office of the superintendent of public instruction. Information provided in accordance with this subsection (2) must include the statewide student identifier for each student. To the extent possible, the office of the superintendent of public instruction shall transmit student enrollment information to the enrolled students' host districts for the current year.

(3)(a) Data-sharing agreements entered into by a community college or technical college as defined in RCW 28B.50.030 are limited to informing Washington high school students of postsecondary educational opportunities available within a college's service district as enumerated in RCW 28B.50.040.

(b) The state board for community and technical colleges may coordinate with all of the community and technical colleges to develop a single data-sharing agreement between the community and technical colleges and the office of the superintendent of public instruction.

(4) Federally designated minority serving institutions of higher education that are bachelor degree-granting institutions and not subject to subsection (1) of this section may enter into data-sharing agreements with the office of the superintendent of public instruction to facilitate the transfer of high school student directory information collected under section 2 of this act for the purpose of informing Washington high school students of postsecondary educational opportunities available in the state.

(5) Agreements entered into under this section must obligate institutions that will receive information through an agreement to maintain the statewide student identifier for each student.

(6) For the purposes of this section, "statewide student identifier" means the statewide student identifier required by RCW 28A.320.175 that is included in the longitudinal student data system established under RCW 28A.300.500.

(7) For the purposes of this section, "directory information" has the same meaning as in section 2 of this act.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) Beginning in 2024, each school district that operates a high school shall annually transmit directory information for all enrolled high school students to the office of the superintendent of public instruction by November 1st.

(2) The office of the superintendent of public instruction must hold the high school student directory information collected under this section and make the information available for institutions of higher education in accordance with section 1 of this act.

(3) By no later than the beginning of the 2025-26 school year, the office of the superintendent of public instruction shall identify a process for making information provided in accordance with section 1(2) of this act on a student's enrollment in an institution of higher education available to the student's school district. The process identified under this subsection (3) must require that information provided to school districts include the statewide student identifier for each student.

(4) In transmitting student information under this section, school districts must comply with the consent procedures under RCW 28A.605.030, the federal family educational and privacy rights act of 1974 (20 U.S.C. Sec. 1232g), and all applicable rules and regulations.

(5) The student directory information data collected under this section is solely for the following purposes:

(a) Providing information related to college awareness and admissions at institutions of higher education in accordance with section 1 of this act; and

(b) Providing enrollment and outcome information to the office of the superintendent of public instruction and to school districts related to students from their respective school district under subsection (3) of this section.

(6) For the purposes of this section:

(a) "Directory information" means the names, addresses, email addresses, and telephone numbers of students and their parents or legal guardians; and

(b) "Statewide student identifier" has the same meaning as in section 1 of this act.

Passed by the Senate April 19, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 407

[Substitute Senate Bill 5617]

SKILL CENTERS—SCHOOL DISTRICT COURSE EQUIVALENCIES

AN ACT Relating to career and technical education course equivalencies; amending RCW 28A.230.097 and 28A.300.236; reenacting and amending RCW 28A.700.070; and adding a new section to chapter 28A.245 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.245 RCW to read as follows:

(1) An interdistrict cooperative agreement between all participating school districts in a skill center under RCW 28A.245.010 must stipulate that any approved state and local equivalency courses offered by the host school district must be honored as equivalency courses by all school districts participating in the skill center.

(2) The list of approved local and state equivalency courses of the host school district must be provided by the host district to participating districts on an annual basis by September 1st.

(3) Students served at any core, branch, or satellite skill center campus must have access to academic credit for any approved local or state equivalency courses offered at those sites and in accordance with transcription requirements in RCW 28A.230.097.

Sec. 2. RCW 28A.230.097 and 2019 c 221 s 2 are each amended to read as follows:

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

(2) ((~~Until September 1, 2021, a school~~)) School district boards of directors must, at a minimum, grant academic course equivalency for at least one statewide equivalency high school career and technical course from the list of courses approved by the superintendent of public instruction under RCW 28A.700.070.

(3)(a) If the list of courses is revised after the 2015-16 school year, the school district board of directors must grant academic course equivalency based on the revised list beginning with the school year immediately following the revision.

(b) Each high school or school district board of directors may additionally adopt local course equivalencies for career and technical education courses that are not on the list of courses approved by the superintendent of public instruction under RCW 28A.700.070 as local equivalency courses in support of RCW 28A.700.070.

(c) Approved local or state equivalency courses at any core, branch, or satellite skill center must be offered for academic credit to all students participating in courses at those sites.

(4) On and after September 1, 2021, any statewide equivalency course offered by a school district or accessed at a skill center must be offered for academic credit.

(5) Career and technical courses determined to be equivalent to academic core courses, in full or in part, by the high school or school district shall be

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

(6) Prior to course scheduling or course registration for the next school term, each public school that serves students in any of grades nine through 12 must provide all students and their parents or legal guardians with information about the opportunities for meeting credit-based graduation requirements through equivalency courses, including those available within the school district or at a skill center.

Sec. 3. RCW 28A.300.236 and 2018 c 177 s 303 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must create methodologies for implementing equivalency crediting on a broader scale across the state and facilitate its implementation including, but not limited to, the following:

(a) Implementing statewide career and technical education course equivalency frameworks authorized under RCW 28A.700.070 and 28A.230.097 for high schools and skill centers ((~~in science, technology, engineering, and mathematics~~)). This may include development of additional equivalency course frameworks in core subject areas, course performance assessments, and development and delivery of professional development for districts and skill centers implementing the career and technical education frameworks; ((~~and~~))

(b) Providing competitive grant funds to school districts to increase the integration and rigor of academic instruction in career and technical education equivalency courses. The grant funds must be used to support teams of general education and career and technical education teachers to convene and design course performance assessments, deepen the understanding of integrating academic and career and technical education in student instruction, and develop professional learning modules for school districts to plan implementation of equivalency crediting; and

(c) Conducting a review of implementation requirements of RCW 28A.230.097 and providing technical assistance to districts to ensure state course equivalencies are being consistently offered for academic credit for students at high schools and skill centers.

(2) Beginning in the 2017-18 school year, school districts shall annually report to the office of the superintendent of public instruction the following information:

(a) The annual number of students participating in state-approved equivalency courses; and

(b) The annual number of state approved equivalency credit courses offered in school districts and skill centers.

(3) Beginning December 1, 2018, and every December 1st thereafter, the office of the superintendent of public instruction shall annually submit the following information to the office of the governor, the state board of education, and the appropriate committees of the legislature:

(a) The selected list of equivalent career and technical education courses and their curriculum frameworks that the superintendent of public instruction has approved under RCW 28A.700.070; ((~~and~~))

(b) A summary of the school district information reported under subsection (2) of this section; and

(c) A summary of implementation efforts and review findings determined under subsection (1) of this section, including recommendations for increasing access to equivalency coursework.

Sec. 4. RCW 28A.700.070 and 2018 c 191 s 1 and 2018 c 177 s 304 are each reenacted and amended to read as follows:

(1) The office of the superintendent of public instruction shall support school district efforts under RCW 28A.230.097 to adopt course equivalencies for career and technical courses by:

(a) Recommending career and technical curriculum suitable for course equivalencies;

(b) Publicizing best practices for high schools and school districts in developing and adopting course equivalencies; and

(c) In consultation with the Washington association for career and technical education, providing professional development, technical assistance, and guidance for school districts seeking to expand their lists of equivalent courses.

(2) The office of the superintendent of public instruction shall provide professional development, technical assistance, and guidance for school districts to develop career and technical course equivalencies that also qualify as advanced placement courses.

(3) The superintendent of public instruction, in consultation with one or more technical working groups convened for this purpose, shall develop and, after an opportunity for public comment, approve curriculum frameworks for a selected list of career and technical courses that may be offered by high schools or skill centers whose academic standards content is considered equivalent in full or in part to the academic courses that meet high school graduation requirements. These courses may include equivalency to English language arts, mathematics, science, social studies, arts, world languages, or health and physical education. The content of the courses must be aligned with the most current Washington K-12 learning standards in English language arts, mathematics, science, arts, world languages, health and physical education, social studies, and required industry standards. The first list of courses under this subsection must be developed and approved before the 2015-16 school year. Thereafter, the superintendent of public instruction may periodically update or revise the list of courses using the process in this subsection.

(4) Subject to funds appropriated for this purpose, the superintendent of public instruction shall allocate grant funds to school districts to increase the integration and rigor of academic instruction in career and technical courses. Grant recipients are encouraged to use grant funds to support teams of academic and technical teachers. The superintendent of public instruction may require that

grant recipients provide matching resources using federal Carl Perkins funds or other fund sources.

(5) Subject to funds appropriated for this purpose, the superintendent of public instruction shall convene a technical working group to develop a course equivalency crosswalk for technology-based competitive student activities that complies with the equivalency and content requirements established in subsection (3) of this section. This technical working group shall include educators from school districts or educational service districts that have experience with technology-based competitive student activities. The superintendent of public instruction shall develop and approve course equivalencies to include in the updated list established in subsection (3) of this section based on the work of the technical working group.

Passed by the Senate April 19, 2023.
Passed by the House March 29, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

CHAPTER 408

[Engrossed Substitute Senate Bill 5599]

YOUTH SHELTERS, HOMELESS YOUTH PROGRAMS, AND HOST HOMES—PROTECTED HEALTH CARE SERVICES

AN ACT Relating to supporting youth and young adults seeking protected health care services; amending RCW 13.32A.082 and 74.15.020; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that unsheltered homelessness for youth poses a serious threat to their health and safety. The Trevor project has found that one in three transgender youth report attempting suicide. Homelessness amongst transgender youth can further endanger an already at-risk population. The legislature further finds that barriers to accessing shelter can place a chilling effect on exiting unsheltered homelessness and therefore create additional risk and dangers for youth. Youth seeking certain medical services are especially at risk and vulnerable. Therefore, the legislature intends to remove barriers to accessing temporary, licensed shelter accommodations for youth seeking certain protected health care services.

Sec. 2. RCW 13.32A.082 and 2013 c 4 s 2 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person, unlicensed youth shelter, or runaway and homeless youth program that, without legal authorization, provides shelter to a minor and that knows at the time of providing the shelter that the minor is away from a lawfully prescribed residence or home without parental permission, shall promptly report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, or the department.

(b)(i) If a licensed overnight youth shelter, or another licensed organization with a stated mission to provide services to homeless or runaway youth and their families, shelters a child and knows at the time of providing the shelter that the child is away from a lawfully prescribed residence or home without parental

permission, it must contact the youth's parent within seventy-two hours, but preferably within twenty-four hours, following the time that the youth is admitted to the shelter or other licensed organization's program. The notification must include the whereabouts of the youth, a description of the youth's physical and emotional condition, and the circumstances surrounding the youth's contact with the shelter or organization. If there are compelling reasons not to notify the parent, the shelter or organization must instead notify the department.

(ii) At least once every eight hours after learning that a youth receiving services or shelter under this section is away from home without permission, the shelter or organization staff must consult the information that the Washington state patrol makes publicly available under RCW 43.43.510(2). If the youth is publicly listed as missing, the shelter or organization must immediately notify the department of its contact with the youth listed as missing. The notification must include a description of the minor's physical and emotional condition and the circumstances surrounding the youth's contact with the shelter or organization.

(c) Reports required under this section may be made by telephone or any other reasonable means.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Shelter" means the person's home or any structure over which the person has any control.

(b) "Promptly report" means to report within eight hours after the person has knowledge that the minor is away from a lawfully prescribed residence or home without parental permission.

(c) "Compelling reasons" include, but are not limited to((~~, circumstances~~)):

(i) Circumstances that indicate that notifying the parent or legal guardian will subject the minor to abuse or neglect as defined in RCW 26.44.020; or

(ii) When a minor is seeking or receiving protected health care services.

(d) "Protected health care services" means gender affirming treatment as defined in RCW 74.09.675 and reproductive health care services as defined in RCW 74.09.875.

(3)(a) When the department receives a report under subsection (1) of this section, it shall make a good faith attempt to notify the parent that a report has been received and offer services designed to resolve the conflict and accomplish a reunification of the family.

(b) When the department receives a report under subsection (1) of this section for a minor who is seeking or receiving protected health care services, it shall:

(i) Offer to make referrals on behalf of the minor for appropriate behavioral health services; and

(ii) Offer services designed to resolve the conflict and accomplish a reunification of the family.

(4) Nothing in this section prohibits any person, unlicensed youth shelter, or runaway and homeless youth program from immediately reporting the identity and location of any minor who is away from a lawfully prescribed residence or home without parental permission more promptly than required under this section.

(5) Nothing in this section limits a person's duty to report child abuse or neglect as required by RCW 26.44.030 or removes the requirement that the law enforcement agency of the jurisdiction in which the person lives be notified.

Sec. 3. RCW 74.15.020 and 2021 c 176 s 5239 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 74.13.031 unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers, or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 43.185C.295 through 43.185C.310;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis. "Group care facility" includes but is not limited to:

(i) Qualified residential treatment programs as defined in RCW 13.34.030;

(ii) Facilities specializing in providing prenatal, postpartum, or parenting supports for youth; and

(iii) Facilities providing high quality residential care and supportive services to children who are, or who are at risk of becoming, victims of sex trafficking;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Resource and assessment center" means an agency that provides short-term emergency and crisis care for a period up to seventy-two hours, excluding Saturdays, Sundays, and holidays to children who have been removed from their parent's or guardian's care by child protective services or law enforcement;

(j) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(k) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection (2), even after the marriage is terminated;

(v) Relatives, as named in (a)(i), (ii), (iii), or (iv) of this subsection (2), of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States citizenship and immigration services, or persons who have the care of such an international child in their home;

(f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and assisted living facilities licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(o)(i) A host home program, and host home, operated by a tax exempt organization for youth not in the care of or receiving services from the department except as provided in subsection (2)(o)(iii) of this section, if that program: (A) Recruits and screens potential homes in the program, including performing background checks on individuals over the age of eighteen residing in the home through the Washington state patrol or equivalent law enforcement agency and performing physical inspections of the home; (B) screens and provides case management services to youth in the program; (C) obtains a notarized permission slip or limited power of attorney from the parent or legal guardian of the youth authorizing the youth to participate in the program and the authorization is updated every six months when a youth remains in a host home

longer than six months, unless there is a compelling reason to not contact the parent or guardian; (D) obtains insurance for the program through an insurance provider authorized under Title 48 RCW; (E) provides mandatory reporter and confidentiality training; and (F) registers with the secretary of state under RCW 74.15.315.

(ii) If a host home program serves a child without parental authorization who is seeking or receiving protected health care services, the host home program must:

(A) Report to the department within 72 hours of the youth's participation in the program and following this report the department shall make a good faith attempt to notify the parent of this report and offer services designed to resolve the conflict and accomplish a reunification of the family;

(B) Report to the department the youth's participation in the host home program at least once every month when the youth remains in the host home longer than one month; and

(C) Provide case management outside of the host home and away from any individuals residing in the home at least once per month.

(iii) A host home program and host home that meets the other requirements of subsection (2)(o) of this section may provide care for a youth who is receiving services from the department if the youth is:

(A) Not subject to a dependency proceeding under chapter 13.34 RCW; and

(B) Seeking or receiving protected health care services.

(iv) For purposes of this section, ((~~a "host~~)) the following definitions apply:

(A) "Host home" ((~~is~~)) means a private home that volunteers to host youth in need of temporary placement that is associated with a host home program.

(((~~iii) For purposes of this section, a "host~~)) (B) "Host home program" is a program that provides support to individual host homes and meets the requirements of (o)(i) of this subsection.

(((~~iv~~))) (C) "Compelling reason" means the youth is in the host home or seeking placement in a host home while seeking or receiving protected health care services.

(D) "Protected health care services" means gender affirming treatment as defined in RCW 74.09.675 and reproductive health care services as defined in RCW 74.09.875.

(v) Any host home program that receives local, state, or government funding shall report the following information to the office of homeless youth prevention and protection programs annually by December 1st of each year: The number of children the program served, why the child was placed with a host home, and where the child went after leaving the host home, including but not limited to returning to the parents, running away, reaching the age of majority, or becoming a dependent of the state;

(p) Receiving centers as defined in RCW 7.68.380.

(3) "Department" means the department of children, youth, and families.

(4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Performance-based contracts" or "contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in

clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of the department.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the workforce innovation and opportunity act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

NEW SECTION. **Sec. 4.** (1) The office of homeless youth prevention and protection programs shall contract with an outside entity to:

(a) Gather data regarding the number of unsheltered homeless youth under age 18 in Washington state; and

(b) Develop recommendations for supporting unsheltered homeless youth under age 18 in Washington state.

(2) By July 1, 2024, and in compliance with RCW 43.01.036, the office of homeless youth prevention and protection programs shall submit the information and recommendations described in subsection (1) of this section to the appropriate committees of the legislature.

Passed by the Senate April 19, 2023.

Passed by the House April 12, 2023.

Approved by the Governor May 9, 2023.

Filed in Office of Secretary of State May 10, 2023.

CHAPTER 409

[Substitute House Bill 1043]

COMMON INTEREST COMMUNITIES—RECORDS

AN ACT Relating to association records in common interest communities; and amending RCW 64.32.170, 64.34.372, 64.38.045, and 64.90.495.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 64.32.170 and 1965 ex.s. c 11 s 5 are each amended to read as follows:

((~~The manager or board of directors, as the case may be, shall keep complete and accurate books and records of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred. Such books and records and the vouchers authorizing payments shall be available for examination by the apartment owners, their agents or attorneys, at any reasonable time or times.~~)) (1) An association of apartment owners must retain the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its apartment owners and board other than executive sessions, a record of all actions taken by the apartment owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;

(c) The names of current apartment owners, addresses used by the association to communicate with them, and the number of votes allocated to each apartment;

(d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;

(e) All financial statements and tax returns of the association for the past seven years;

(f) A list of the names and addresses of its current board members and officers;

(g) Its most recent annual report delivered to the secretary of state, if any;

(h) Copies of contracts to which it is or was a party within the last seven years;

(i) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(j) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(k) Copies of insurance policies under which the association is a named insured;

(l) Any current warranties provided to the association;

(m) Copies of all notices provided to apartment owners or the association in accordance with this chapter or the governing documents; and

(n) Ballots, proxies, absentee ballots, and other records related to voting by apartment owners for one year after the election, action, or vote to which they relate.

(2)(a) Subject to subsections (3) through (5) of this section, and except as provided in (b) of this subsection, all records required to be retained by an association of apartment owners must be made available for examination and copying by all apartment owners, holders of mortgages on the apartments, and their respective authorized agents as follows, unless agreed otherwise:

(i) During reasonable business hours or at a mutually convenient time and location; and

(ii) At the offices of the association or its managing agent.

(b) The list of apartment owners required to be retained by an association under subsection (1)(c) of this section is not required to be made available for examination and copying by holders of mortgages on the apartments.

(3) Records retained by an association of apartment owners must have the following information redacted or otherwise removed prior to disclosure:

(a) Personnel and medical records relating to specific individuals;

(b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;

(c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;

(d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;

(e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;

(f) Information the disclosure of which would violate a court order or law;

(g) Records of an executive session of the board;

(h) Individual apartment files other than those of the requesting apartment owner;

(i) Unlisted telephone number or electronic address of any apartment owner or resident;

(j) Security access information provided to the association for emergency purposes; or

(k) Agreements that for good cause prohibit disclosure to the members.

(4) In addition to the requirements in subsection (3) of this section, an association of apartment owners must, prior to disclosure of the list of apartment owners required to be retained by an association under subsection (1)(c) of this section, redact or otherwise remove the address of any apartment owner or resident who is known to the association to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law.

(5)(a) Except as provided in (b) of this subsection, an association of apartment owners may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the apartment owner's inspection.

(b) An apartment owner is entitled to receive a free annual electronic or paper copy of the list retained under subsection (1)(c) of this section from the association.

(6) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the apartment owner.

(7) An association of apartment owners is not obligated to compile or synthesize information.

(8) Information provided pursuant to this section may not be used for commercial purposes.

(9) An association of apartment owner's managing agent must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. An association managing agent may keep copies of the association records at its own expense.

(10) All books and records shall be kept in accordance with good accounting procedures and be audited at least once a year by an auditor outside of the organization.

(11) This section applies to records in the possession of the association on the effective date of this section, and to records created or maintained after the effective date of this section. An association has no liability under this section for records disposed of prior to the effective date of this section.

Sec. 2. RCW 64.34.372 and 1992 c 220 s 19 are each amended to read as follows:

(1) The association shall keep financial records sufficiently detailed to enable the association to comply with RCW 64.34.425. All financial and other records of the association, including but not limited to checks, bank records, and invoices, are the property of the association((~~, but shall be made reasonably available for examination and copying by the manager of the association, any unit owner, or the owner's authorized agents~~)). At least annually, the association shall prepare, or cause to be prepared, a financial statement of the association in accordance with generally accepted accounting principles. The financial statements of condominiums consisting of ((~~fifty~~)) 50 or more units shall be audited at least annually by a certified public accountant. In the case of a condominium consisting of fewer than ((~~fifty~~)) 50 units, an annual audit is also required but may be waived annually by unit owners other than the declarant of units to which ((~~sixty~~)) 60 percent of the votes are allocated, excluding the votes allocated to units owned by the declarant.

(2) The funds of an association shall be kept in accounts in the name of the association and shall not be commingled with the funds of any other association, nor with the funds of any manager of the association or any other person responsible for the custody of such funds. Any reserve funds of an association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two persons who are officers or directors of the association.

(3) An association must retain the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its unit owners and board other than executive sessions, a record of all actions taken by the unit owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;

(c) The names of current unit owners, addresses used by the association to communicate with them, and the number of votes allocated to each unit;

(d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;

(e) All financial statements and tax returns of the association for the past seven years;

(f) A list of the names and addresses of its current board members and officers;

(g) Its most recent annual report delivered to the secretary of state, if any;

(h) Copies of contracts to which it is or was a party within the last seven years;

(i) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(j) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(k) Copies of insurance policies under which the association is a named insured;

(l) Any current warranties provided to the association;

(m) Copies of all notices provided to unit owners or the association in accordance with this chapter or the governing documents; and

(n) Ballots, proxies, absentee ballots, and other records related to voting by unit owners for one year after the election, action, or vote to which they relate.

(4)(a) Subject to subsections (5) through (7) of this section, and except as provided in (b) of this subsection, all records required to be retained by an association must be made available for examination and copying by all unit owners, holders of mortgages on the units, and their respective authorized agents as follows, unless agreed otherwise:

(i) During reasonable business hours or at a mutually convenient time and location; and

(ii) At the offices of the association or its managing agent.

(b) The list of unit owners required to be retained by an association under subsection (3)(c) of this section is not required to be made available for examination and copying by holders of mortgages on the units.

(5) Records retained by an association must have the following information redacted or otherwise removed prior to disclosure:

(a) Personnel and medical records relating to specific individuals;

(b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;

(c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;

(d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;

(e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;

(f) Information the disclosure of which would violate a court order or law;

(g) Records of an executive session of the board;

(h) Individual unit files other than those of the requesting unit owner;

(i) Unlisted telephone number or electronic address of any unit owner or resident;

(j) Security access information provided to the association for emergency purposes; or

(k) Agreements that for good cause prohibit disclosure to the members.

(6) In addition to the requirements in subsection (5) of this section, an association must, prior to disclosure of the list of unit owners required to be retained by an association under subsection (3)(c) of this section, redact or otherwise remove the address of any unit owner or resident who is known to the association to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law.

(7)(a) Except as provided in (b) of this subsection, an association may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the unit owner's inspection.

(b) A unit owner is entitled to receive a free annual electronic or paper copy of the list retained under subsection (3)(c) of this section from the association.

(8) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the unit owner.

(9) An association is not obligated to compile or synthesize information.

(10) Information provided pursuant to this section may not be used for commercial purposes.

(11) An association's managing agent must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. An association managing agent may keep copies of the association records at its own expense.

(12) This section applies to records in the possession of the association on the effective date of this section, and to records created or maintained after the effective date of this section. An association has no liability under this section for records disposed of prior to the effective date of this section.

Sec. 3. RCW 64.38.045 and 1995 c 283 s 9 are each amended to read as follows:

(1) The association or its managing agent shall keep financial and other records sufficiently detailed to enable the association to fully declare to each owner the true statement of its financial status. All financial and other records of the association, including but not limited to checks, bank records, and invoices, in whatever form they are kept, are the property of the association. Each association managing agent shall turn over all original books and records to the association immediately upon termination of the management relationship with

the association, or upon such other demand as is made by the board of directors. An association managing agent is entitled to keep copies of association records. All records which the managing agent has turned over to the association shall be made reasonably available for the examination and copying by the managing agent.

(2) ((~~All records of the association, including the names and addresses of owners and other occupants of the lots, shall be available for examination by all owners, holders of mortgages on the lots, and their respective authorized agents on reasonable advance notice during normal working hours at the offices of the association or its managing agent. The association shall not release the unlisted telephone number of any owner. The association may impose and collect a reasonable charge for copies and any reasonable costs incurred by the association in providing access to records.~~

~~(3)~~)) At least annually, the association shall prepare, or cause to be prepared, a financial statement of the association. The financial statements of associations with annual assessments of ((~~fifty thousand dollars~~)) $50,000 or more shall be audited at least annually by an independent certified public accountant, but the audit may be waived if ((~~sixty-seven~~)) 67 percent of the votes cast by owners, in person or by proxy, at a meeting of the association at which a quorum is present, vote each year to waive the audit.

(((~~(4)~~))) (3) The funds of the association shall be kept in accounts in the name of the association and shall not be commingled with the funds of any other association, nor with the funds of any manager of the association or any other person responsible for the custody of such funds.

(4) An association must retain the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its owners and board other than executive sessions, a record of all actions taken by the owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;

(c) The names of current owners, addresses used by the association to communicate with them, and the number of votes allocated to each lot;

(d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;

(e) All financial statements and tax returns of the association for the past seven years;

(f) A list of the names and addresses of its current board members and officers;

(g) Its most recent annual report delivered to the secretary of state, if any;

(h) Copies of contracts to which it is or was a party within the last seven years;

(i) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(j) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(k) Copies of insurance policies under which the association is a named insured;

(l) Any current warranties provided to the association;

(m) Copies of all notices provided to owners or the association in accordance with this chapter or the governing documents; and

(n) Ballots, proxies, absentee ballots, and other records related to voting by owners for one year after the election, action, or vote to which they relate.

(5)(a) Subject to subsections (6) through (8) of this section, and except as provided in (b) of this subsection, all records required to be retained by an association must be made available for examination and copying by all owners, holders of mortgages on the lots, and their respective authorized agents as follows, unless agreed otherwise:

(i) During reasonable business hours or at a mutually convenient time and location; and

(ii) At the offices of the association or its managing agent.

(b) The list of owners required to be retained by an association under subsection (4)(c) of this section is not required to be made available for examination and copying by holders of mortgages on the lots.

(6) Records retained by an association must have the following information redacted or otherwise removed prior to disclosure:

(a) Personnel and medical records relating to specific individuals;

(b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;

(c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;

(d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;

(e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;

(f) Information the disclosure of which would violate a court order or law;

(g) Records of an executive session of the board;

(h) Individual lot files other than those of the requesting owner;

(i) Unlisted telephone number or electronic address of any owner or resident;

(j) Security access information provided to the association for emergency purposes; or

(k) Agreements that for good cause prohibit disclosure to the members.

(7) In addition to the requirements in subsection (6) of this section, an association must, prior to disclosure of the list of owners required to be retained by an association under subsection (4)(c) of this section, redact or otherwise remove the address of any owner or resident who is known to the association to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law.

(8)(a) Except as provided in (b) of this subsection, an association may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the owner's inspection.

(b) An owner is entitled to receive a free annual electronic or paper copy of the list retained under subsection (4)(c) of this section from the association.

(9) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the owner.

(10) An association is not obligated to compile or synthesize information.

(11) Information provided pursuant to this section may not be used for commercial purposes.

(12) An association's managing agent must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. An association managing agent may keep copies of the association records at its own expense.

(13) This section applies to records in the possession of the association on the effective date of this section, and to records created or maintained after the effective date of this section. An association has no liability under this section for records disposed of prior to the effective date of this section.

Sec. 4. RCW 64.90.495 and 2018 c 277 s 320 are each amended to read as follows:

(1) An association must retain the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its unit owners and board other than executive sessions, a record of all actions taken by the unit owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the association;

(c) The names of current unit owners, addresses used by the association to communicate with them, and the number of votes allocated to each unit;

(d) Its original or restated declaration, organizational documents, all amendments to the declaration and organizational documents, and all rules currently in effect;

(e) All financial statements and tax returns of the association for the past seven years;

(f) A list of the names and addresses of its current board members and officers;

(g) Its most recent annual report delivered to the secretary of state, if any;

(h) Financial and other records sufficiently detailed to enable the association to comply with RCW 64.90.640;

(i) Copies of contracts to which it is or was a party within the last seven years;

(j) Materials relied upon by the board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(k) Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(l) Copies of insurance policies under which the association is a named insured;

(m) Any current warranties provided to the association;

(n) Copies of all notices provided to unit owners or the association in accordance with this chapter or the governing documents; and

(o) Ballots, proxies, absentee ballots, and other records related to voting by unit owners for one year after the election, action, or vote to which they relate.

(2)(a) Subject to subsections (3) ((~~and (4)~~)) through (5) of this section, and except as provided in (b) of this subsection, all records required to be retained by an association must be made available for examination and copying by all unit owners, holders of mortgages on the units, and their respective authorized agents as follows, unless agreed otherwise:

(((~~(a)~~))) (i) During reasonable business hours or at a mutually convenient time and location; and

(((~~(b)~~))) (ii) At the offices of the association or its managing agent.

(b) The list of unit owners required to be retained by an association under subsection (1)(c) of this section is not required to be made available for examination and copying by holders of mortgages on the units.

(3) Records retained by an association ((~~may be withheld from inspection and copying to the extent that they concern~~)) must have the following information redacted or otherwise removed prior to disclosure:

(a) Personnel and medical records relating to specific individuals;

(b) Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;

(c) Existing or potential litigation or mediation, arbitration, or administrative proceedings;

(d) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;

(e) Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with the managing agent or other agent of the association;

(f) Information the disclosure of which would violate a court order or law;

(g) Records of an executive session of the board;

(h) Individual unit files other than those of the requesting unit owner;

(i) Unlisted telephone number or electronic address of any unit owner or resident;

(j) Security access information provided to the association for emergency purposes; or

(k) Agreements that for good cause prohibit disclosure to the members.

(4) In addition to the requirements in subsection (3) of this section, an association must, prior to disclosure of the list of unit owners required to be retained by an association under subsection (1)(c) of this section, redact or otherwise remove the address of any unit owner or resident who is known to the association to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law.

((~~An~~)) (5)(a) Except as provided in (b) of this subsection, an association may charge a reasonable fee for producing and providing copies of any records under this section and for supervising the unit owner's inspection.

(b) A unit owner is entitled to receive a free annual electronic or paper copy of the list retained under subsection (1)(c) of this section from the association.

((~~(5)~~)) (6) A right to copy records under this section includes the right to receive copies by photocopying or other means, including through an electronic transmission if available upon request by the unit owner.

((~~(6)~~)) (7) An association is not obligated to compile or synthesize information.

((~~(7)~~)) (8) Information provided pursuant to this section may not be used for commercial purposes.

((~~(8)~~)) (9) An association's managing agent must deliver all of the association's original books and records to the association immediately upon termination of its management relationship with the association, or upon such other demand as is made by the board. An association managing agent may keep copies of the association records at its own expense.

Passed by the House April 14, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 410

[Substitute House Bill 1056]

STATE RETIREMENT SYSTEMS—POSTRETIREMENT EMPLOYMENT—EARLY RETIREMENT FACTORS

AN ACT Relating to repealing some postretirement employment restrictions; amending RCW 41.32.765, 41.32.802, 41.32.862, 41.32.875, 41.35.060, 41.35.420, 41.35.680, 41.40.630, and 41.40.820; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** It is the intent of the legislature to remove some of the restrictions on the types and amount of postretirement employment that members that chose the enhanced early retirement formula created in 2008 for the public employees', school employees', and teachers' retirement systems plans 2 and 3 can perform while in receipt of a retirement allowance. This change simplifies administration of the retirement system and could assist employers currently experiencing difficulties recruiting and retaining employees. In addition, some employees were offered and accepted a choice of lower early retirement benefits without the work-related benefit restrictions that are now being removed from those that chose higher benefits. The legislature intends those employees not be penalized for that choice after the employment-related benefit restrictions are removed. Therefore, pursuant to this act, the legislature intends that the employees that chose the three percent per year early retirement reduction and fewer benefit restrictions, rather than the 2008 early retirement formula with restrictions now being removed, shall have their benefit reduction recalculated to the level of the 2008 reduction for benefits made on or after the effective date of this section.

Sec. 2. RCW 41.32.765 and 2012 1st sp.s. c 7 s 1 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b)(i) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

((~~Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.32.802(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.32.800(1).~~

~~The subsidized reductions for alternate early retirement in this subsection as set forth in section 2, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.~~)) (ii) Any member who retired on or after September 1, 2008, and chose the three percent per year reduction provided under (a) of this subsection shall have a retirement allowance recalculated under the reductions of (b)(i) of this subsection for benefit payments made on or after the effective date of this section.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 3. RCW 41.32.802 and 2022 c 110 s 2 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and

retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) ((~~A retiree who has retired under the alternate early retirement provisions of RCW 41.32.765(3)(b) may be employed with an employer for up to 867 hours per calendar year without suspension of his or her benefit, provided that: (i) The retired teacher reenters employment more than one calendar month after his or her accrual date and after June 9, 2016; and (ii) the retired teacher is employed in a nonadministrative capacity.~~

~~(c)~~))(i) Between March 23, 2022, and July 1, 2025, a retiree who reenters employment more than one month after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(ii) Between March 23, 2022, and July 1, 2025, a retiree that retired before January 1, 2022, and who enters service in a second-class school district, as defined in RCW 28A.300.065, as either a district superintendent or an in-school administrator shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(iii) The legislature reserves the right to amend or repeal this subsection (2)(((~~(c)~~))) (b) in the future and no member or beneficiary has a contractual right to be employed for more than 867 hours in a calendar year without a reduction of his or her pension.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

Sec. 4. RCW 41.32.862 and 2022 c 110 s 3 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) ((~~A retiree who has retired under the alternate early retirement provisions of RCW 41.32.875(3)(b) may be employed with an employer for up~~

~~to 867 hours per calendar year without suspension of his or her benefit, provided that: (i) The retired teacher reenters employment more than one calendar month after his or her accrual date and after June 9, 2016; and (ii) the retired teacher is employed in a nonadministrative capacity.~~

~~(c)~~))(i) Between March 23, 2022, and July 1, 2025, a retired teacher or retired administrator who reenters employment more than one month after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(ii) Between March 23, 2022, and July 1, 2025, a retiree that retired before January 1, 2022, and who enters service in a second-class school district, as defined in RCW 28A.300.065, as either a district superintendent or an in-school administrator shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(iii) The legislature reserves the right to amend or repeal this subsection (2)((~~(c)~~)) (b) in the future and no member or beneficiary has a contractual right to be employed for more than 867 hours in a calendar year without a reduction of his or her pension.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

Sec. 5. RCW 41.32.875 and 2012 1st sp.s. c 7 s 2 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or

(c) Completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b)(i) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

((~~Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.32.862(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.32.860(1).~~

~~The subsidized reductions for alternate early retirement in this subsection as set forth in section 4, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.~~)) (ii) Any member who retired on or after September 1, 2008, and chose the three percent per year reduction provided under (a) of this subsection shall have a retirement allowance

recalculated under the reductions of (b)(i) of this subsection for benefit payments made on or after the effective date of this section.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 6. RCW 41.35.060 and 2022 c 110 s 4 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) ((~~A retiree in the school employees' retirement system plan 2 or plan 3 who has retired under the alternate early retirement provisions of RCW 41.35.420(3)(b) may be employed with an employer for up to 867 hours per calendar year without suspension of his or her benefit, provided that: (i) The retiree reenters employment more than one calendar month after his or her accrual date; and (ii) the retiree is employed in a nonadministrative position.~~

~~(c)~~)) Between March 23, 2022, and July 1, 2025, a retiree, including a retiree who has retired under the alternate early retirement provisions of RCW 41.35.420(3)(b) or 41.35.680(3)(b), who reenters employment more than one month after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year. The legislature reserves the right to amend or repeal this subsection (2)(((~~(c)~~))) (b) in the future and no member or beneficiary has a contractual right to be employed for more than 867 hours in a calendar year without a reduction of his or her pension.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, he or she terminates his or her retirement status and becomes a member. Retirement

benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.35.420 or 41.35.680. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

Sec. 7. RCW 41.35.420 and 2012 1st sp.s. c 7 s 3 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b)(i) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

((~~Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.35.060(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.35.230(1).~~

~~The subsidized reductions for alternate early retirement in this subsection as set forth in section 6, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.~~)) (ii) Any member who retired on or after September 1, 2008, and chose the three percent per year reduction provided under (a) of this subsection shall have a retirement allowance recalculated under the reductions of (b)(i) of this subsection for benefit payments made on or after the effective date of this section.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 8. RCW 41.35.680 and 2012 1st sp.s. c 7 s 4 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or

(c) Completed five service credit years by September 1, 2000, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.35.510;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b)(i) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

((~~Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.35.060(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.35.230(1).~~

~~The subsidized reductions for alternate early retirement in this subsection as set forth in section 8, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or~~

~~repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.~~)) (ii) Any member who retired on or after September 1, 2008, and chose the three percent per year reduction provided under (a) of this subsection shall have a retirement allowance recalculated under the reductions of (b)(i) of this subsection for benefit payments made on or after the effective date of this section.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 9. RCW 41.40.630 and 2012 1st sp.s. c 7 s 5 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b)(i) On or after July 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire

and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

((~~Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.40.037(2)(d) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.40.690(1).~~

~~The subsidized reductions for alternate early retirement in this subsection as set forth in section 9, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.~~)) (ii) Any member who retired on or after September 1, 2008, and chose the three percent per year reduction provided under (a) of this subsection shall have a retirement allowance recalculated under the reductions of (b)(i) of this subsection for benefit payments made on or after the effective date of this section.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 10. RCW 41.40.820 and 2012 1st sp.s. c 7 s 6 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or

(c) Completed five service credit years by the transfer payment date specified in RCW 41.40.795, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.40.795;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b)(i) On or after July 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%

Retirement Age	Percent Reduction
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

((~~Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.40.037(2)(d) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.40.850(1).~~

~~The subsidized reductions for alternate early retirement in this subsection as set forth in section 10, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.~~)) (ii) Any member who retired on or after September 1, 2008, and chose the three percent per year reduction provided under (a) of this subsection shall have a retirement allowance recalculated under the reductions of (b)(i) of this subsection for benefit payments made on or after the effective date of this section.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced

by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

NEW SECTION. **Sec. 11.** This act takes effect January 1, 2024.

Passed by the House February 6, 2023.
Passed by the Senate April 20, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 411

[Substitute House Bill 1267]

RURAL PUBLIC FACILITIES SALES AND USE TAX—EXTENSION AND MODIFICATION

AN ACT Relating to rural public facilities sales and use tax; and amending RCW 82.14.370.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.14.370 and 2022 c 175 s 1 are each amended to read as follows:

(1) The legislative authority of a rural county may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax may not exceed 0.09 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax, except that for rural counties with population densities between 60 and 100 persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section must be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section may only be used to finance public facilities serving economic development purposes in rural counties and finance personnel in economic development offices. The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county's comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040, or provide affordable workforce housing infrastructure or facilities. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county's capital facilities plan or the capital facilities plan of a city or town located within the county, or provide affordable workforce housing infrastructure or facilities.

(b) In implementing this section, the county must consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure of money collected under this section meets the goals of ((~~chapter 130, Laws of 2004~~)) creating, attracting, expanding, and retaining businesses, providing family wage jobs, and providing affordable workforce housing infrastructure or facilities and

the use of money collected under this section meets the requirements of (a) of this subsection. Each county collecting money under this section must provide a report((~~, as follows,~~)) to the office of the state auditor((~~,~~)) within 150 days after the close of each fiscal year((~~: (i) A list of new projects begun during the fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection; and (ii) expenditures during the fiscal year on projects begun in a previous year~~)) identifying in detail each new and continuing public facility project, economic development purpose project, affordable workforce housing infrastructure or facilities project, economic development staff position, and qualifying provider project funded with the tax authorized under this section and the amount of tax proceeds allocated to such project or position in the prior fiscal year. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the tax imposed under subsection (1) of this section has been pledged may not be deemed to be new projects under this subsection. No new projects funded with money collected under this section may be for justice system facilities.

(c) The definitions in this section apply throughout this section.

(i) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, electrical facilities, natural gas facilities, research, testing, training, and incubation facilities in innovation partnership zones designated under RCW 43.330.270, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, port facilities in the state of Washington, or affordable workforce housing infrastructure or facilities.

(ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county, including affordable workforce housing infrastructure or facilities.

(iii) "Economic development office" means an office of a county, port districts, or an associate development organization as defined in RCW 43.330.010, which promotes economic development purposes within the county.

(iv) "Affordable workforce housing infrastructure or facilities" means housing infrastructure or facilities that a qualifying provider uses for housing for a single person, family, or unrelated persons living together whose income is no more than 120 percent of the median income, adjusted for housing size, for the county where the housing is located.

(v) "Qualifying provider" means a nonprofit entity as defined in RCW 84.36.560, a nonprofit entity or qualified cooperative association as defined in RCW 84.36.049, a housing authority created under RCW 35.82.030 or 35.82.300, a public corporation established under RCW 35.21.660 or 35.21.730, or a county or municipal corporation.

(4) No tax may be collected under this section before July 1, 1998.

(a) Except as provided in (b) of this subsection, no tax may be collected under this section by a county more than 25 years after the date that a tax is first imposed under this section.

(b) For counties imposing the tax ((~~at the rate of 0.09 percent~~)) before August 1, 2009, and meeting the definition of a rural county as of August 1, 2009, the tax expires ((~~on the date that is 25 years after the date that the 0.09 percent tax rate was first imposed by that county~~)) December 31, 2054.

(5) By December 31, 2024, the state auditor must provide a publicly accessible report on its website containing the project information and other expenditure information included in the annual report required under subsection (3)(b) of this section for each county. The publicly accessible report must also include the total amount of revenue collected by the county under this section in the prior fiscal year. The state auditor must develop a standardized expenditure report for the project information and other expenditure information included in the annual report submitted by counties. This subsection applies to reports filed beginning in 2024 based on 2023 expenditures and thereafter.

(6) For purposes of this section, "rural county" means a county with a population density of less than 100 persons per square mile or a county smaller than 225 square miles as determined by the office of financial management ((~~and published each year by the department for the period July 1st to June 30th~~)) pursuant to RCW 43.62.035.

Passed by the House April 20, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 412

[House Bill 1301]

PROFESSIONAL LICENSES—REVIEW

AN ACT Relating to creating a review process for professional licensing regulations and requiring a report to the legislature; and adding a new chapter to Title 18 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that, at times, additional protection by means of the regulation of a profession through professional licensure may be deemed necessary to ensure that the public's health, safety, and general welfare is protected. Furthermore, technological innovation continues to change the responsibilities and practices surrounding these professions, and by result, the potential harms associated with them.

(2) It is also recognized that requirements, such as educational requirements, fees, and training hours, which an individual must fulfill before receiving a license to practice in a profession, can create barriers to an individual's upward mobility and freedom to pursue their profession of choice.

(3) It is, therefore, the intent of the legislature to establish a sunset review process for all professional licensing requirements regulated by the department of licensing, to ensure that the rights and well-being of current and future practitioners of the profession be given full protection from unnecessary regulatory burden and that regulations meant to safeguard public health and safety are still warranted.

NEW SECTION. **Sec. 2.** This chapter may be known and cited as the professional license review act.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of licensing.

(2) "Director" means the director of licensing.

NEW SECTION. **Sec. 4.** (1) Beginning in 2024, the department shall annually review and analyze approximately 10 percent of the professional licenses regulated by the department and prepare and submit an annual report electronically to the chief clerk of the house of representatives, the secretary of the senate, and each member of the house of representatives and senate by August 31st of each year as provided in this section. The department shall complete this process for all professional licenses within its jurisdiction within 10 years and every 10 years thereafter. Each report shall include the department's recommendations regarding whether the professional licenses should be terminated, continued, or modified.

(2) The department may require the submission of information by the affected professional board or commission and other affected or interested parties. The department shall provide notice to the relevant professional board or commission and all licensees, not regulated under a board or commission, prior to commencing the review.

(3) The department's report shall include, but not be limited to, the following:

(a) The title of the professional license and, if applicable, the name of the professional board or commission responsible for enforcement of the professional license, if any;

(b) The statutory citation or other authorization for the creation of the professional license and, if applicable, the professional board or commission;

(c) If applicable, the number of members of the professional board or commission and how the members are appointed;

(d) If applicable, the qualifications for membership on the professional board or commission;

(e) If applicable, the number of times the professional board or commission is required to meet during the year and the number of times it actually met during the preceding five calendar years;

(f) Annual budget information for the five most recently completed fiscal years;

(g) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, professional licenses, and registrations the department, professional board, or commission has issued, revoked, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties;

(h) A review of the basic assumptions underlying the creation of the professional license;

(i) A comparison of whether and how other states regulate the profession;

(j) A review and analysis of the hours or other amount of education, training, or experience required to obtain the license or credential;

(k) A summary of any regulatory changes made by the department, professional board, or commission as a result of the review; and

(l) Any recommendations regarding whether the professional license should be terminated, continued, or modified.

(4) After the report in subsection (3) of this section is submitted, if the relevant legislative committee determines further analysis is needed it may

request the department to conduct further analysis. Specifically, the extended report shall include:

(a) Whether the professional license meets the policies stated and the following recommended courses of action for meeting such policies:

(i) If the need is to protect consumers against fraud, the recommended course of action should be to strengthen powers under chapter 19.86 RCW, or require disclosures that will reduce misleading attributes of the specific goods or services;

(ii) If the need is to protect consumers against unclean facilities or to promote general health and safety, the recommended course of action should be to require periodic inspections of such facilities;

(iii) If the need is to protect consumers against potential damages from failure by providers to complete a contract fully or up to standards, the recommended course of action should be to require that providers be bonded;

(iv) If the need is to protect a person who is not a party to a contract between the provider and consumer, the recommended course of action should be to require that the provider have insurance;

(v) If the need is to protect consumers against potential damages by transient providers, the recommended course of action should be to require that providers register their businesses with the state;

(vi) If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the providers' knowledge, the recommended course of action should be to enact government certification; and

(vii) If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's inability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the recommended course of action should be to enact a professional license; and

(b) If education, training, or experience is a qualification in the professional license under review, a review and analysis of the hours or other amount of education, training, or experience required to ensure such requirements are as least restrictive as necessary to protect the public's health, safety, and welfare.

(5) If a lawful profession is subject to chapter 18.120 RCW, the analysis under subsection (4)(a) of this section shall be made using the least restrictive method of regulation as set out in RCW 18.120.010.

(6) If the department finds that it is necessary to change professional licenses, the department shall recommend the least restrictive regulation consistent with the public interest and the policies in this section.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 18 RCW.

Passed by the House April 13, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor May 11, 2023.

Filed in Office of Secretary of State May 11, 2023.

CHAPTER 413

[House Bill 1317]

GRASS ROOTS LOBBYING—PUBLIC DISCLOSURE

AN ACT Relating to improving transparency in grass roots lobbying disclosure; and amending RCW 42.17A.640.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.17A.640 and 2010 c 204 s 809 are each amended to read as follows:

(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17A.615 or by a candidate or political committee under RCW 42.17A.225 or 42.17A.235, exceeding one thousand dollars in the aggregate within any three-month period or exceeding five hundred dollars in the aggregate within any one-month period in presenting a ((~~program~~)) campaign to the public, a substantial portion of which is intended, designed, or calculated primarily to solicit, urge, or encourage the public to influence legislation, shall register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) ((~~Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the~~)) (a) The sponsor shall register by filing with the commission a registration statement:

(i) Within 24 hours of the initial presentation of the campaign to the public during the period:

(A) Beginning on the 30th day before a regular legislative session convenes and continuing through the date of final adjournment of that session; or

(B) Beginning on the date that a special legislative session has been called or 30 days before the special legislative session is scheduled to convene, whichever is later, and continuing through the date of final adjournment of that session; or

(ii) Within five business days of the initial presentation of the campaign to the public during any other period.

(b) The registration must show, in such detail as the commission shall prescribe((~~, showing~~)):

(((~~(a)~~))) (i) The sponsor's name, address, and business or occupation and employer, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(((~~(b)~~))) (ii) The names, addresses, and business or occupation and employer of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(((~~(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed~~)) (iii) Each source of funding for the campaign of $25 or more, including:

(A) General treasury funds. The name and address of each business, union, group, association, or other organization using general treasury funds for the campaign; however, if such entity undertakes a special solicitation of its members or other persons for the campaign, or it otherwise receives funds for the campaign, that entity shall report pursuant to (b)(ii) of this subsection; and

(B) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the campaign, along with the amount;

(((~~(d)~~))) (iv) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(((~~(e)~~))) (v) The totals of all expenditures made or incurred to date on behalf of the campaign segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses; and

(vi) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report. The final report shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

(5)(a) Any advertising or other mass communication produced as part of a campaign must include the following disclosures:

(i) All written communications shall include the sponsor's name and address. All radio and television communications shall include the sponsor's name. The use of an assumed name for the sponsor is unlawful;

(ii) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the communication must include the full name of that individual or entity; and

(iii) If the communication costs $1,000 or more, the communication must include:

(A) The statement "Top Five Contributors," followed by a listing of the names of each of the five largest sources of funding of $1,000 or more, as reported under subsection (2)(b) of this section, during the 12-month period preceding the date on which the advertisement is initially to be published or otherwise presented to the public; and

(B) If one of the "Top Five Contributors" listed includes a political committee, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities other than political committees making the largest aggregate contributions to political committees using the same methodology as provided in RCW 42.17A.350(2).

(b) Abbreviations may be used to describe entities required to be listed under (a) of this subsection if the full name of the entity has been clearly spoken

previously during the communication. The information required by (a) of this subsection shall:

(i) In a written communication:

(A) Appear on the first page or fold of the written advertisement or communication in at least 10-point type, or in type at least 10 percent of the largest size type used in a written communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(B) Not be subject to the half-tone or screening process; and

(C) Be set apart from any other printed matter. No text may be before, after, or immediately adjacent to the information required by (a) of this subsection; or

(ii) In a communication transmitted via television or another medium that includes a visual image or audio:

(A) Be clearly spoken; or

(B) Appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height on a solid black background on the entire bottom one-third of the television or visual display screen, or bottom one-fourth of the screen if the sponsor does not have or is otherwise not required to list its top five contributors, and have a reasonable color contrast with the background.

(6) The commission is authorized to adopt rules, as needed, to prevent ways to circumvent the purposes of the required disclosures in this section or otherwise in conformance with the policies and purposes of this chapter.

Passed by the House April 14, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 414

[Substitute House Bill 1318]

AIRCRAFT MAINTENANCE AND REPAIR—SALES AND USE TAX EXEMPTION—MODIFICATION

AN ACT Relating to retail sales tax exemptions for certain aircraft maintenance and repair; amending RCW 82.08.025661 and 82.12.025661; creating a new section; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.08.025661 and 2022 c 56 s 5 are each amended to read as follows:

(1) Subject to the requirements of this section, the tax levied by RCW 82.08.020 does not apply to:

(a) Charges for labor and services rendered in respect to the constructing of new buildings, made to: (i) An eligible maintenance repair operator engaged in the maintenance of airplanes; or (ii) a port district, political subdivision, or municipal corporation, if the new building is to be leased to an eligible maintenance repair operator engaged in the maintenance of airplanes;

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing; or

(c) Charges made for labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2)(a) The exemption in this section is in the form of a remittance. A buyer claiming an exemption from the tax in the form of a remittance under this section must pay all applicable state and local sales taxes imposed under RCW 82.08.020 and chapter 82.14 RCW on all purchases qualifying for the exemption.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer may on a quarterly basis submit an application, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the location and size of new structures; and construction invoices and documents.

(c) The department must on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(d) A person may request a remittance for state sales and use taxes after the aircraft maintenance and repair station has been operationally complete for four years, but not sooner than December 1, 2021. However, the department may not remit the state portion of sales and use taxes if the person did not report at least ((~~one hundred~~)) 100 average employment positions with an average annualized wage of $80,000 to the employment security department for ((~~October 1, 2020, through September 30, 2021, with an average annualized wage of eighty thousand dollars~~)) a period of four consecutive calendar quarters, beginning with the first calendar quarter after the date the facility is issued an occupancy permit by the local permit issuing authority. A person must provide the department with the unemployment insurance number provided to the employment security department for the establishment.

(e) A person may request a remittance for local sales and use taxes on or after July 1, 2016.

(3) In order to qualify under this section before starting construction, the port district, political subdivision, or municipal corporation must have entered into an agreement with an eligible maintenance repair operator to build such a facility. A person claiming the exemption under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must file a complete annual report with the department under RCW 82.32.534.

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

(a) "Eligible maintenance repair operator" means a person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and located in ((~~an international~~)) a commercial services airport owned by a county with a population ((~~greater~~)) less than ((~~one million five hundred thousand~~)) 1,000,000 or a commercial services airport jointly owned by a city and county.

(b) "Operationally complete" means constructed to the point of being functionally capable of hosting the repair and maintenance of airplanes.

(5) This section expires January 1, ((~~2027~~)) 2031.

Sec. 2. RCW 82.12.025661 and 2016 c 191 s 3 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of:

(a) Tangible personal property that will be incorporated as an ingredient or component in constructing new buildings for: (i) An eligible maintenance repair operator; or (ii) a port district, political subdivision, or municipal corporation, to be leased to an eligible maintenance repair operator; or

(b) Labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2) The eligibility requirements, conditions, and definitions in RCW 82.08.025661 apply to this section, including the filing of a complete annual report with the department under RCW 82.32.534.

(3) This section expires January 1, ((~~2027~~)) 2031.

NEW SECTION. **Sec. 3.** RCW 82.32.808 does not apply to this act.

Passed by the House April 20, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 415

[Engrossed House Bill 1324]

CRIMINAL SENTENCING—OFFENDER SCORE—PRIOR JUVENILE OFFENSES

AN ACT Relating to the scoring of prior juvenile offenses in sentencing range calculations; amending RCW 9.94A.525; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature intends to:

(1) Give real effect to the juvenile justice system's express goals of rehabilitation and reintegration;

(2) Bring Washington in line with the majority of states, which do not consider prior juvenile offenses in sentencing range calculations for adults;

(3) Recognize the expansive body of scientific research on brain development, which shows that adolescent's perception, judgment, and decision making differs significantly from that of adults;

(4) Facilitate the provision of due process by granting the procedural protections of a criminal proceeding in any adjudication which may be used to determine the severity of a criminal sentence; and

(5) Recognize how grave disproportionality within the juvenile legal system may subsequently impact sentencing ranges in adult court.

Sec. 2. RCW 9.94A.525 and 2021 c 215 s 100 are each amended to read as follows:

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

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

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

(b) For the purposes of this section, adjudications of guilt pursuant to Title 13 RCW which are not murder in the first or second degree or class A felony sex offenses may not be included in the offender score.

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

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

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

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

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

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

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

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Neither out-of-

state or federal convictions which would have been presumptively adjudicated in juvenile court under Washington law may be included in the offender score unless they are comparable to murder in the first or second degree or a class A felony sex offense. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

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

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

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

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

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

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

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction ((~~and 1/2 point for each juvenile prior nonviolent felony conviction~~)) which is scorable under subsection (1)(b) of this section.

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

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

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

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

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

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

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only adult prior escape convictions in the offender score. Count ((~~adult~~)) prior escape convictions as one point ((~~and juvenile prior escape convictions as 1/2 point~~)).

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions which are scorable under subsection (1)(b) of this section as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each

((~~adult and juvenile~~)) prior Burglary 1 conviction, and two points for each ((~~adult~~)) prior Burglary 2 or residential burglary conviction((~~, and one point for each juvenile prior Burglary 2 or residential burglary conviction~~)).

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

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult prior sex offense conviction and juvenile prior sex offense conviction which is scorable under subsection (1)(b) of this section, excluding adult prior convictions for failure to register as a sex offender under RCW 9A.44.130 or 9A.44.132, which shall count as one point.

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

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

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

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for any of the following offenses: A felony violation of a no-contact or protection order (RCW 7.105.450 or former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

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

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

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

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

Passed by the House April 22, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 416

[Substitute House Bill 1431]

SENIOR LIVING COMMUNITIES—TENANT MEALS—SALES AND USE TAX

AN ACT Relating to clarifying that meals furnished to tenants of senior living communities as part of their rental agreement are not subject to sales and use tax; amending RCW 82.04.040 and 82.04.040; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.04.040 and 2019 c 357 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this subsection, "sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail" or "retail sale" under RCW 82.04.050. It includes lease or rental, conditional sale contracts, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not. The term "sale" does not include the transfer of the ownership of, title to, or possession of:

(a) An animal by an animal rescue organization in exchange for the payment of an adoption fee; ((~~or~~))

(b) An abandoned vehicle sold by a registered tow truck operator to a successful bidder at public auction or, if there is no successful bidder, to a licensed vehicle wrecker, hulk hauler, or scrap processor, as provided in RCW 46.55.130. Nothing in this subsection (1)(b) may be construed as providing an exemption from:

(i) The tax imposed by chapter 82.12 RCW on the use of an abandoned vehicle by any consumer; or

(ii) Taxes imposed under this chapter and chapter 82.08 RCW on automobile towing and automobile storage services provided by a registered tow truck operator; or

(c) Food, drink, or meals furnished by a senior living community to tenants as part of a rental or residency agreement for which no separate charge is made, regardless of whether the tenant is a resident for purposes of chapter 18.20 or 18.390 RCW.

(2) "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved.

(3)(a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. "Lease or rental" includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. Sec. 7701(h)(1), as amended or renumbered as of January 1, 2003. The definition in this subsection (3) must be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the United States internal revenue code, Washington state's commercial code, or other provisions of federal, state, or local law.

(b) "Lease or rental" does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments, and payment of an option price does not exceed the greater of ((~~one hundred dollars~~)) $100 or one percent of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (3)(b)(iii), an operator must do more than maintain, inspect, or set up the tangible personal property.

(4)(a) "Adoption fee" means an amount charged by an animal rescue organization to adopt an animal, except that "adoption fee" does not include any separately itemized charge for any incidental inanimate items provided to persons adopting an animal, including food, identification tags, collars, and leashes.

(b) "Animal care and control agency" means the same as in RCW 16.52.011 and also includes any similar entity operating outside of this state.

(c) "Animal rescue group" means a nonprofit organization that:

(i)(A) Is exempt from federal income taxation under 26 U.S.C. Sec. 501(c) of the federal internal revenue code as it exists on July 23, 2017; or

(B) Is registered as a charity with the Washington secretary of state under chapter 19.09 RCW, whether such registration is required by law or voluntary;

(ii) Has as its primary purpose the prevention of abuse, neglect, cruelty, exploitation, or homelessness of animals; and

(iii) Exclusively obtains dogs, cats, or other animals for placement that are:

(A) Stray or abandoned;

(B) Surrendered or relinquished by animal owners or caretakers;

(C) Transferred from other animal rescue organizations; or

(D) Born in the care of such nonprofit organization other than through intentional breeding by the nonprofit organization.

(d) "Animal rescue organization" means an animal care and control agency or an animal rescue group.

(e) "Senior living community" means any facility or campus operated by a person licensed or registered under chapter 18.20 or 18.390 RCW.

Sec. 2. RCW 82.04.040 and 2017 c 323 s 201 are each amended to read as follows:

(1) Except as otherwise provided in this subsection, "sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail" or "retail sale" under RCW 82.04.050. It includes lease or rental, conditional sale contracts, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not. The term "sale" does not include the transfer of the ownership of, title to, or possession of ((~~an~~)):

(a) An animal by an animal rescue organization in exchange for the payment of an adoption fee; or

(b) Food, drink, or meals furnished by a senior living community to tenants as part of a rental or residency agreement for which no separate charge is made, regardless of whether the tenant is a resident for purposes of chapter 18.20 or 18.390 RCW.

(2) "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved.

(3)(a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. "Lease or rental" includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. Sec. 7701(h)(1), as amended or renumbered as of January 1, 2003. The definition in this subsection (3) must be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the United States internal revenue code, Washington state's commercial code, or other provisions of federal, state, or local law.

(b) "Lease or rental" does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments, and payment

of an option price does not exceed the greater of ((~~one hundred dollars~~)) $100 or one percent of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (3)(b)(iii), an operator must do more than maintain, inspect, or set up the tangible personal property.

(4)(a) "Adoption fee" means an amount charged by an animal rescue organization to adopt an animal, except that "adoption fee" does not include any separately itemized charge for any incidental inanimate items provided to persons adopting an animal, including food, identification tags, collars, and leashes.

(b) "Animal care and control agency" means the same as in RCW 16.52.011 and also includes any similar entity operating outside of this state.

(c) "Animal rescue group" means a nonprofit organization that:

(i)(A) Is exempt from federal income taxation under 26 U.S.C. Sec. 501(c) of the federal internal revenue code as it exists on July 23, 2017; or

(B) Is registered as a charity with the Washington secretary of state under chapter 19.09 RCW, whether such registration is required by law or voluntary;

(ii) Has as its primary purpose the prevention of abuse, neglect, cruelty, exploitation, or homelessness of animals; and

(iii) Exclusively obtains dogs, cats, or other animals for placement that are:

(A) Stray or abandoned;

(B) Surrendered or relinquished by animal owners or caretakers;

(C) Transferred from other animal rescue organizations; or

(D) Born in the care of such nonprofit organization other than through intentional breeding by the nonprofit organization.

(d) "Animal rescue organization" means an animal care and control agency or an animal rescue group.

(e) "Senior living community" means any facility or campus operated by a person licensed or registered under chapter 18.20 or 18.390 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW to read as follows:

This chapter does not apply to food, drinks, or meals furnished by a senior living community to tenants as part of a rental or residency agreement for which no separate charge is made, regardless of whether the tenant is a resident for purposes of chapter 18.20 or 18.390 RCW.

NEW SECTION. **Sec. 4.** RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec. 5.** Section 1 of this act expires January 1, 2030.

NEW SECTION. **Sec. 6.** Section 2 of this act takes effect January 1, 2030.

Passed by the House March 16, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 417

[Engrossed Substitute House Bill 1436]

SPECIAL EDUCATION FUNDING—VARIOUS PROVISIONS

AN ACT Relating to special education funding; amending RCW 28A.150.390, 28A.150.392, and 43.06B.010; adding a new section to chapter 28A.155 RCW; adding a new section to chapter 28A.150 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) The superintendent of public instruction shall annually review data from local education agencies, including the percentage of students receiving special education services, to ensure there is not a disproportionate identification of students, as defined by the superintendent of public instruction in accordance with federal requirements of the individuals with disabilities education act, 20 U.S.C. Sec. 1400.

(2) The office of the superintendent of public instruction shall provide technical assistance to school districts experiencing issues related to disproportionality and will make available professional development opportunities statewide to support local education agencies, schools, and community partners in promoting inclusionary teaching practices within a multitiered system of supports framework to help safeguard against over-identification and other issues related to disproportionality.

***NEW SECTION.** Sec. 2. (1)(a) It is the intent of the legislature to ensure that the state's special education funding formula does not result in a limitation on services or excess cost allocations to which students are entitled. To this end, the legislature acknowledges that a comprehensive review of the special education funding formula to examine the impacts of recent modifications and the potential need for future modifications is overdue, including the need to look at enrollment percent caps and minimum threshold values for access to the safety net.*

(b) The legislature also intends to examine the current accounting and reporting methodologies to ensure that they continue to accurately serve their purpose of providing transparency and accountability and enable the legislature to oversee the state's funding of the program of special education.

(2) The joint legislative audit and review committee and the state auditor, in consultation with the office of the superintendent of public instruction, must collaborate to conduct a performance audit of the state's system of providing special education services to students with disabilities, including a review of each funding formula component used to allocate resources to school districts for the program of special education and the interplay between those different components. The joint legislative audit and review committee and the state auditor may divide responsibility for the work and reporting required in this section as appropriate, and contract with qualified third-party researchers or higher education institutions to perform any aspect of the report and audit. The report and audit must address:

(a) The prevalence of disabilities and whether the provisions and funding for evaluating students and providing services reflects the prevalence of

disabilities, including whether any populations are disparately underevaluated or underserved;

(b) The degree to which changes in funding formulas intended to encourage increased inclusion are successful and whether the state and school districts are utilizing best practices to improve inclusion;

(c) Whether the changes in evaluation timelines or increases in the funded enrollment limit have resulted in funding for students who do not have disabilities or in excess of districts' costs to serve students with disabilities;

(d) Whether districts are appropriately accounting for and reporting use of basic education allocations for students with disabilities, including if statutory expectations for use of funds are being met. As part of this review, the joint legislative audit and review committee shall revisit their special education excess cost accounting and reporting requirements report from February 2006 and determine if the special education excess cost accounting methodology and requirements are still functioning as intended with other changes in funding and service delivery focused on inclusion in a general education setting and if additional modifications are recommended;

(e) The amount of funding from levies or other local sources that school districts continue to utilize under current accounting methodologies in order to meet obligations to provide free and appropriate public education to students with disabilities, the degree to which funding shortfalls will continue following planned increases in multipliers, proposed changes to accounting methodologies, and the elimination of a cap on the percent of students for whom the state provides funding; and, options for additional changes to funding formulas to eliminate shortfalls in state funding for special education;

(f) How the state may improve recruitment and retention of certificated educators, instructional aides, or paraeducators and professionals serving students with disabilities;

(g) How the existing special education funding formula components used to allocate resources to school districts in Washington address the actual funding needs of school districts to fully serve all students with disabilities. This review must include an examination of each individual funding formula component including, but not limited to, the use of multiple student weights, the funded percentage cap, and safety net eligibility requirements. This review must also address how the funding formula components interplay within the overall funding model to address the diverse and variable needs of school district special education programs; and

(h) How Washington's special education funding model compares to different special education funding models used in other states. This review and comparison must identify the strengths and weaknesses of Washington's funding model as compared to other funding models and, at a minimum, review past studies and findings related to Washington's special education funding model. This review must identify which state formulas place a cap or threshold value on the number or percentage of special education students for purposes of generating funding and if those states differ in other ways from the states that do not have a limit, such as using tiered funding formulas or an average dollar allocation per special education student.

(3) To develop the appropriate scope, define study questions, and select one or more contractors to complete the performance audit and report, the

joint legislative audit and review committee and state auditor shall consult with the office of the superintendent of public instruction, the office of the education ombuds, organizations representing and serving students with disabilities, the Washington state special education advisory council, and labor organizations representing educators providing educational services to students with disabilities in developing study questions and choosing appropriate contractors. To address the study questions, the joint legislative audit and review committee and the state auditor may conduct the audit at a sample of school districts as needed.

(4) The performance audit required by this section must include charter schools to the same extent as school districts.

(5) Upon request, the office of financial management and any state or local agency must provide the joint legislative audit and review committee and the state auditor with education records necessary to conduct the performance audit required under this section. The joint legislative audit and review committee and the state auditor shall be considered authorized representatives of relevant state education authorities, including the superintendent of public instruction and the department of children, youth, and families, for the purpose of accessing records for this evaluation. The office of financial management and any state or local agency must provide records within four months from the date of an initial request. The office of financial management or agencies contributing data to the education research and data center must notify the joint legislative audit and review committee and the state auditor's office in writing if they determine a request does not comply with the federal educational rights and privacy act, no later than 21 days after the initial request.

(6) Prior to the 2024 legislative session, the joint legislative audit and review committee and the state auditor must identify a lead agency for each element of the report and audit defined in subsection (2)(a) through (h) of this section and any aspects of the study that are being conducted by contractors. These designations must be provided to the governor and the committees of the legislature with jurisdiction over fiscal matters and special education by December 31, 2023.

(7) The joint legislative audit and review committee and the state auditor must, in accordance with RCW 43.01.036, report the study's findings and recommendations to the governor and the committees of the legislature with jurisdiction over fiscal matters and special education by November 30, 2024.

(8)(a) As the joint legislative audit and review committee examines the current special education excess cost accounting and reporting methodologies, the following methodology shall be used by the superintendent of public instruction through the 2026-27 school year: If a school district's percentage used to calculate the state general apportionment revenue allocated to special education is lower than the percentage used for the 2022-23 school year, the superintendent of public instruction must allocate state general apportionment revenue to special education based on the percentage used in the 2022-23 school year, except as provided in (b) of this subsection.

(b)(i) Subsection (8)(a) of this section does not apply to school districts with a percentage used to calculate the state general apportionment revenue allocated to special education greater than 30 percent.

(ii) School districts with a percentage used to calculate the state general apportionment revenue allocated to special education less than 20 percent must be allocated at 20 percent.

(iii) If a school district's percentage of time students eligible for and receiving special education are served in a general education setting is at least five percentage points greater than its 2022-23 percentage in a school year, the school district's percentage used to calculate the state general apportionment revenue allocated to special education may be reduced by one percentage point for that school year from the 2022-23 percentage.

(iv) School districts with enrollments of less than 300 full-time equivalent students are exempt from all provisions of this subsection (8).

(9) This section expires December 31, 2026.

****Sec. 2 was vetoed. See message at end of chapter.***

Sec. 3. RCW 28A.150.390 and 2020 c 90 s 3 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and 28A.150.415.

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages three and four and those five year olds not yet enrolled in kindergarten who are eligible for and receiving special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by ((~~1.15~~)) 1.2;

(b)(i) Subject to the limitation in (b)(ii) of this subsection (2), a district's annual average enrollment of resident students who are eligible for and receiving special education, excluding students ages three and four and those five year olds not yet enrolled in kindergarten, multiplied by the district's base allocation per full-time equivalent student, multiplied by the special education cost multiplier rate of:

(A) ((~~In the 2019-20 school year, 0.995 for students eligible for and receiving special education.~~

~~(B)~~)) Beginning in the 2020-21 school year, either:

(I) 1.0075 for students eligible for and receiving special education and reported to be in the general education setting for ((~~eighty~~)) 80 percent or more of the school day; or

(II) 0.995 for students eligible for and receiving special education and reported to be in the general education setting for less than ((~~eighty~~)) 80 percent of the school day;

(B) Beginning in the 2023-24 school year, either:

(I) 1.12 for students eligible for and receiving special education and reported to be in the general education setting for 80 percent or more of the school day; or

(II) 1.06 for students eligible for and receiving special education and reported to be in the general education setting for less than 80 percent of the school day.

(ii) If the enrollment percent exceeds ((~~thirteen and five-tenths~~)) 15 percent, the excess cost allocation calculated under (b)(i) of this subsection must be adjusted by multiplying the allocation by ((~~thirteen and five-tenths~~)) 15 percent divided by the enrollment percent.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident annual average enrollment of students who are eligible for and receiving special education, excluding students ages three and four and those five year olds not yet enrolled in kindergarten and students enrolled in institutional education programs, as a percent of the district's annual average full-time equivalent basic education enrollment.

Sec. 4. RCW 28A.150.392 and 2019 c 387 s 2 are each amended to read as follows:

(1)(a) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390.

(b) If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in any fiscal year, then the superintendent shall expend all available federal discretionary funds necessary to meet this need.

(2) Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall award additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas.

(b) In the determination of need, the committee shall consider additional available revenues from federal sources.

(c) Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(d) In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state revenues related to services for students eligible for special education and all federal revenues from federal impact aid, medicaid, and the individuals with disabilities education act-Part B and appropriate special projects. Awards associated with (e) and (f) of this subsection shall not exceed the total of a district's specific determination of need.

(e) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(f) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, which may include consideration of proximity to group homes, military bases, and regional hospitals. Safety net awards under this subsection (2)(f) shall be adjusted to reflect amounts awarded under (e) of this subsection.

(g) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education served in residential schools ((~~as defined in RCW 28A.190.020~~)), programs for juveniles under the department of corrections, and programs for juveniles operated by city and county jails to the extent they are providing a secondary program of education.

(h) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(i) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent of public instruction in accordance with chapter 318, Laws of 1999.

(j) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(3) The superintendent of public instruction shall adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. By December 1, 2018, the superintendent shall review and revise the rules to achieve full and complete implementation of the requirements of this subsection and subsection (4) of this section including revisions to rules that provide additional flexibility to access community impact awards. Before revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature. In adopting and revising the rules, the superintendent shall ensure the application process to access safety net funding is streamlined, timelines for submission are not in conflict, feedback to school districts is timely and provides sufficient information to allow school districts to understand how to correct any deficiencies in a safety net application, and that there is consistency between awards approved by school district and by application period. The office of the superintendent of public instruction shall also provide technical assistance to school districts in preparing and submitting special education safety net applications.

(4) On an annual basis, the superintendent shall survey districts regarding their satisfaction with the safety net process and consider feedback from districts to improve the safety net process. Each year by December 1st, the superintendent shall prepare and submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the survey results and those changes made to the safety net process as a result of the school district feedback.

(5) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(6)(a) Beginning in the 2019-20 school year, a high-need student is eligible for safety net awards from state funding under subsection (2)(e) and (g) of this section if the student's individualized education program costs exceed two and three-tenths times the average per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015.

(b) Beginning in the 2023-24 school year, a high-need student is eligible for safety net awards from state funding under subsection (2)(e) and (g) of this section if the student's individualized education program costs exceed:

(i) 2 times the average per-pupil expenditure, for school districts with fewer than 1,000 full-time equivalent students;

(ii) 2.2 times the average per-pupil expenditure, for school districts with 1,000 or more full-time equivalent students.

(c) For purposes of (b) of this subsection, "average per-pupil expenditure" has the same meaning as in 20 U.S.C. Sec. 7801, the every student succeeds act of 2015, and excludes safety net funding provided in this section.

Sec. 5. RCW 43.06B.010 and 2013 c 23 s 82 are each amended to read as follows:

(1) There is hereby created the office of the education ombuds within the office of the governor for the purposes of providing information to parents, students, and others regarding their rights and responsibilities with respect to the state's public elementary and secondary education system, and advocating on behalf of elementary and secondary students.

(2)(a) The governor shall appoint an ombuds who shall be a person of recognized judgment, independence, objectivity, and integrity and shall be qualified by training or experience or both in the following areas:

(i) Public education law and policy in this state;

(ii) Dispute resolution or problem resolution techniques, including mediation and negotiation; and

(iii) Community outreach.

(b) The education ombuds may not be an employee of any school district, the office of the superintendent of public instruction, or the state board of education while serving as an education ombuds.

(3) Before the appointment of the education ombuds, the governor shall share information regarding the appointment to a six-person legislative committee appointed and comprised as follows:

(a) The committee shall consist of three senators and three members of the house of representatives from the legislature.

(b) The senate members of the committee shall be appointed by the president of the senate. Two members shall represent the majority caucus and one member the minority caucus.

(c) The house of representatives members of the committee shall be appointed by the speaker of the house of representatives. Two members shall represent the majority caucus and one member the minority caucus.

(4) If sufficient appropriations are provided, the education ombuds shall delegate and certify regional education ombuds. The education ombuds shall ensure that the regional ombuds selected are appropriate to the community in which they serve and hold the same qualifications as in subsection (2)(a) of this section. The education ombuds may not contract with the superintendent of public instruction, or any school, school district, or current employee of a school, school district, or the office of the superintendent of public instruction for the provision of regional ombuds services.

(5)(a) Subject to amounts appropriated for this specific purpose, the education ombuds shall delegate and certify at least one special education ombuds to serve each educational service district region. The education ombuds shall ensure that the special education ombuds selected are appropriate to the community in which they serve and hold the same qualifications as in subsection (2)(a) of this section. The education ombuds may not contract with the superintendent of public instruction, or any school, school district, educational service district, or current employee of a school, school district, educational service district, or the office of the superintendent of public instruction for the provision of special education ombuds services.

(b) Special education ombuds must serve as a resource for students eligible for special education services and their parents, including:

(i) Advocating on behalf of the student for a free and appropriate public education from the public school system that emphasizes special education and related services that are:

(A) Provided in the least restrictive environment;

(B) Designed to meet the student's unique needs;

(C) Appropriately ambitious and reasonably calculated to enable a student to make progress in light of the student's circumstances; and

(D) Addressing the student's further education, employment, and independent living goals.

(ii) Assisting students and parents with individualized education program development, including:

(A) Preparing for a meeting to develop or update a student's individualized education program;

(B) Attending individualized education program meetings to help present the parents' concerns, negotiate components that meet the parents' goals and requests, or otherwise assist the parent in understanding and navigating the individualized education program process; and

(C) Attending an individualized education program meeting to assist in writing an appropriate program when a parent opts out or otherwise cannot attend.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) It is the policy of the state that for purposes of state funding allocations, students eligible for and receiving special education generate the full basic education allocation under RCW 28A.150.260 and, as a class, are to receive the benefits of this allocation for the entire school day, as defined in RCW

28A.150.203, whether the student is placed in the general education setting or another setting.

(2) The superintendent of public instruction shall develop an allocation and cost accounting methodology that ensures state general apportionment funding for students who receive their basic education services primarily in an alternative classroom or setting are prorated and allocated to the special education program and accounted for before calculating special education excess costs. Nothing in this section requires districts to provide services in a manner inconsistent with the students individualized education program or other than in the least restrictive environment as determined by the individualized education program team.

(3) The superintendent of public instruction shall provide the legislature with an accounting of prorated general apportionment allocations provided to special education programs broken down by school district by January 1, 2024, and then every January 1st of odd-numbered years thereafter.

Passed by the House April 22, 2023.

Passed by the Senate April 21, 2023.

Approved by the Governor May 11, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 11, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 2, Engrossed Substitute House Bill No. 1436 entitled:

"AN ACT Relating to special education funding."

Section 2 requires the Joint Legislative Audit and Review Committee and the State Auditor to conduct a performance audit of the state's special education system. Subsection 5 of Section 2 provides that these entities shall be considered authorized representatives of relevant state education authorities, including the Superintendent of Public Instruction and the Department of Children, Youth, and Families, for the purpose of accessing student records for this evaluation. This provision conflicts with policies that favor the protection of student records and individual student privacy, without a corresponding need for that confidential, personal information.

For these reasons I have vetoed Section 2 of Engrossed Substitute House Bill No. 1436.

With the exception of Section 2, Engrossed Substitute House Bill No. 1436 is approved."

CHAPTER 418

[Second Substitute House Bill 1447]

ASSISTANCE PROGRAMS—ELIGIBILITY

AN ACT Relating to strengthening the ability of assistance programs to meet foundational needs of children, adults, and families; amending RCW 74.04.005, 74.08A.010, 74.08A.015, 74.08A.230, 74.08A.250, 74.08A.270, and 74.04.266; reenacting and amending RCW 74.08A.010; creating a new section; providing effective dates; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.04.005 and 2020 c 136 s 1 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Aged, blind, or disabled assistance program" means the program established under RCW 74.62.030.

(2) "Applicant" means any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(3) "Authority" means the health care authority.

(4) "County or local office" means the administrative office for one or more counties or designated service areas.

(5) "Department" means the department of social and health services.

(6) "Director" means the director of the health care authority.

(7) "Essential needs and housing support program" means the program established in RCW 43.185C.220.

(8) "Federal aid assistance" means the specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(9) "Income" means:

(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(10) "Need" means the difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(11) "Public assistance" or "assistance" means public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, benefits under RCW 74.62.030 and 43.185C.220, and federal aid assistance.

(12) "Recipient" means any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(13) "Resource" means any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant

may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) One motor vehicle, other than a motor home, that is used and useful ((~~having an equity value not to exceed ten thousand dollars~~));

(d) A motor vehicle necessary to transport a household member with a physical disability. This exclusion is limited to one vehicle per person with a physical disability;

(e) Retirement funds, pension plans, and retirement accounts;

(f) All other resources, including any excess of values exempted, not to exceed ((~~six thousand dollars~~)) $12,000 or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance;

(((~~(f)~~))) (g) Applicants for or recipients of benefits under RCW 74.62.030 and 43.185C.220 shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(((~~(g)~~))) (h) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property if:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(14) "Secretary" means the secretary of social and health services.

(15) "Standards of assistance" means the level of income required by an applicant or recipient to maintain a level of living specified by the department.

(16)(a) "Victim of human trafficking" means a noncitizen and any qualifying family members who have:

(i) Filed or are preparing to file an application for T nonimmigrant status with the appropriate federal agency pursuant to 8 U.S.C. Sec. 1101(a)(15)(T), as it existed on January 1, 2020;

(ii) Filed or are preparing to file an application with the appropriate federal agency for status pursuant to 8 U.S.C. Sec. 1101(a)(15)(U), as it existed on January 1, 2020; or

(iii) Been harmed by either any violation of chapter 9A.40 or 9.68A RCW, or both, or by substantially similar crimes under federal law or the laws of any other state, and who:

(A) Are otherwise taking steps to meet the conditions for federal benefits eligibility under 22 U.S.C. Sec. 7105, as it existed on January 1, 2020; or

(B) Have filed or are preparing to file an application with the appropriate federal agency for status under 8 U.S.C. Sec. 1158.

(b)(i) "Qualifying family member" means:

(A) A victim's spouse and children; and

(B) When the victim is under ((~~twenty-one~~)) 21 years of age, a victim's parents and unmarried siblings under the age of ((~~eighteen~~)) 18.

(ii) "Qualifying family member" does not include a family member who has been charged with or convicted of attempt, conspiracy, solicitation, or commission of any crime referenced in this subsection or described under 8 U.S.C. Sec. 1101(a)(15)(T) or (U) as either existed on January 1, 2020, when the crime is against a spouse who is a victim of human trafficking or against the child of a victim of human trafficking.

(17) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(18) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

Sec. 2. RCW 74.08A.010 and 2022 c 24 s 1 are each amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for ((~~sixty~~)) 60 months after July 27, 1997, shall be ineligible for further temporary assistance for needy families assistance.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member received a temporary assistance for needy families cash assistance grant unless the assistance was provided when the adult family member was a minor child and not the head of the household or married to the head of the household.

(3) ((~~The department shall adopt regulations to apply the sixty-month time limit to households in which a parent is in the home and ineligible for temporary assistance for needy families. Any regulations shall be consistent with federal funding requirements.~~

~~(4)~~)) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of commerce, or the crime victims' compensation program of the department of labor and industries.

((~~(5)(a)~~)) (4) The department shall add to adopted rules related to temporary assistance for needy families time limit extensions, the following criteria by which the department shall exempt a recipient and the recipient's family from the application of subsection (1) of this section:

((~~(i)~~)) (a) By reason of hardship, including when:

((~~(A)~~)) (i) The recipient's family includes a child or youth who is without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2020;

((~~(B)~~)) (ii) The recipient received temporary assistance for needy families during a month on or after March 1, 2020, when Washington state's unemployment rate as published by the Washington employment security department was equal to or greater than seven percent, and the recipient is otherwise eligible for temporary assistance for needy families except that they have exceeded 60 months. The extension provided for under this subsection ((~~(5)~~)) (4)(a)((~~(i)(B)~~)) (ii) is equal to the number of months that the recipient received temporary assistance for needy families during a month on or after March 1, 2020, when the unemployment rate was equal to or greater than seven percent, and is applied sequentially to any other hardship extensions that may apply under this subsection ((~~(5)~~)) (4) or in rule; or

((~~(C)~~)) (iii) Beginning July 1, 2022, the Washington state unemployment rate most recently published by the Washington employment security department is equal to or greater than seven percent; or

((~~(ii)~~)) (b) If the family includes an individual who meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193.

((~~(b) Policies related to circumstances under which a recipient will be exempted from the application of subsection (1) or (3) of this section shall treat adults receiving benefits on their own behalf, and parents receiving benefits on behalf of their child similarly, unless required otherwise under federal law.~~

~~(6)~~)) (5) The department shall not exempt a recipient and his or her family from the application of subsection (1) ((~~or (3)~~)) of this section until after the recipient has received ((~~fifty-two~~)) 52 months of assistance under this chapter.

((~~(7)~~)) (6) The department shall provide transitional food assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in sanction status. If necessary, the department shall extend the household's basic food certification until the end of the transition period.

((~~(8)~~)) (7) The department may adopt rules specifying which published employment security department unemployment rates to use for the purposes of subsection ((~~(5)~~)) (4)(a)((~~(i)(B) and (C)~~)) (ii) and (iii) of this section.

Sec. 3. RCW 74.08A.010 and 2022 c 98 s 1 and 2022 c 24 s 1 are each reenacted and amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for ((~~sixty~~)) 60 months after July 27, 1997, shall be ineligible for further temporary assistance for needy families assistance.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member received a temporary assistance for needy families cash assistance grant unless the assistance was

provided when the adult family member was a minor child and not the head of the household or married to the head of the household.

(3) ((~~The department shall adopt regulations to apply the sixty-month time limit to households in which a parent is in the home and ineligible for temporary assistance for needy families. Any regulations shall be consistent with federal funding requirements.~~

~~(4)~~)) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of commerce, or the crime victims' compensation program of the department of labor and industries.

(((~~(5)(a)~~))) (4) The department shall add to adopted rules related to temporary assistance for needy families time limit extensions, the following criteria by which the department shall exempt a recipient and the recipient's family from the application of subsection (1) of this section:

(((~~(i)~~))) (a) By reason of hardship, including when:

(((~~(A)~~))) (i) The recipient's family includes a child or youth who is without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2020;

(((~~(B)~~))) (ii) The recipient received temporary assistance for needy families during a month on or after March 1, 2020, when Washington state's unemployment rate as published by the Washington employment security department was equal to or greater than seven percent, and the recipient is otherwise eligible for temporary assistance for needy families except that they have exceeded 60 months. The extension provided for under this subsection (((~~(5)~~))) (4)(a)(((~~(i)(B)~~))) (ii) is equal to the number of months that the recipient received temporary assistance for needy families during a month on or after March 1, 2020, when the unemployment rate was equal to or greater than seven percent, and is applied sequentially to any other hardship extensions that may apply under this subsection (((~~(5)~~))) (4) or in rule; or

(((~~(C)~~))) (iii) Beginning July 1, 2022, the Washington state unemployment rate most recently published by the Washington employment security department is equal to or greater than seven percent; or

(((~~(ii)~~))) (b) If the family includes an individual who meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193.

(((~~(b) Policies related to circumstances under which a recipient will be exempted from the application of subsection (1) or (3) of this section shall treat adults receiving benefits on their own behalf, and parents receiving benefits on behalf of their child similarly, unless required otherwise under federal law.~~

~~(6)~~)) (5) The department shall not exempt a recipient and his or her family from the application of subsection (1) ((~~or (3)~~)) of this section until after the recipient has received ((~~fifty-two~~)) 52 months of assistance under this chapter.

(((~~(7)~~))) (6) The department shall provide transitional food assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in full-family sanction status. If a member of a household has been sanctioned but the household is still receiving benefits, the remaining eligible household members may receive transitional

food assistance. If necessary, the department shall extend the household's basic food certification until the end of the transition period.

((~~(8)~~)) (7) The department may adopt rules specifying which published employment security department unemployment rates to use for the purposes of subsection ((~~(5)~~)) (4)(a)((~~(i)(B) and (C)~~)) (ii) and (iii) of this section.

Sec. 4. RCW 74.08A.015 and 2021 c 239 s 3 are each amended to read as follows:

All families who have received temporary assistance for needy families since March 1, 2020, are eligible for the extension under RCW 74.08A.010((~~(5)~~)) (4)(a)((~~(i)(B)~~)) (ii), regardless of whether they are current recipients. Eligible families shall only receive temporary assistance for needy families benefits that accrue after July 25, 2021.

Sec. 5. RCW 74.08A.230 and 1997 c 58 s 308 are each amended to read as follows:

(1) In addition to their monthly benefit payment, a family may earn and keep the first $500 of the family's earnings in addition to one-half of ((~~its~~)) the family's remaining earnings during every month it is eligible to receive assistance under this section.

(2) In no event may a family be eligible for temporary assistance for needy families if its monthly gross earned income exceeds the maximum earned income level as set by the department. In calculating a household's gross earnings, the department shall disregard the earnings of a minor child who is:

(a) A full-time student; or

(b) A part-time student carrying at least half the normal school load and working fewer than ((~~thirty-five~~)) 35 hours per week.

Sec. 6. RCW 74.08A.250 and 2019 c 343 s 5 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter, "work activity" means:

(1) Unsubsidized paid employment in the private or public sector;

(2) Subsidized paid employment in the private or public sector, including employment through the state or federal work-study program for a period not to exceed ((~~twenty-four~~)) 24 months;

(3) Work experience, including:

(a) An internship or practicum, that is paid or unpaid and is required to complete a course of vocational training or to obtain a license or certificate in a high-demand occupation, as determined by the employment security department. No internship or practicum shall exceed ((~~twelve~~)) 12 months; or

(b) Work associated with the refurbishing of publicly assisted housing, if sufficient paid employment is not available;

(4) On-the-job training;

(5) Job search and job readiness assistance;

(6) Community service programs, including a recipient's voluntary service at a child care or preschool facility licensed under chapter 43.216 RCW or an elementary school in which his or her child is enrolled;

(7) Vocational educational training, not to exceed ((~~twelve~~)) 12 months with respect to any individual except that this ((~~twelve-month~~)) 12-month limit may

be increased to ((~~twenty-four~~)) 24 months subject to funding appropriated specifically for this purpose;

(8) Job skills training directly related to employment;

(9) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a high school equivalency certificate as provided in RCW 28B.50.536;

(10) Satisfactory attendance at secondary school or in a course of study leading to a high school equivalency certificate as provided in RCW 28B.50.536, in the case of a recipient who has not completed secondary school or received such a certificate;

(11) The provision of child care services to an individual who is participating in a community service program;

(12) Internships, that shall be paid or unpaid work experience performed by an intern in a business, industry, or government or nongovernmental agency setting;

(13) Practicums, which include any educational program in which a student is working under the close supervision of a professional in an agency, clinic, or other professional practice setting for purposes of advancing their skills and knowledge;

(14) Services required by the recipient under RCW 74.08.025(2) and 74.08A.010(((~~(4)~~))) (3) to become employable;

(15) Financial literacy activities designed to be effective in assisting a recipient in becoming self-sufficient and financially stable; and

(16) Parent education services or programs that support development of appropriate parenting skills, life skills, and employment-related competencies.

Sec. 7. RCW 74.08A.270 and 2017 3rd sp.s. c 21 s 2 are each amended to read as follows:

(1) Good cause reasons for failure to participate in WorkFirst program components include situations where: (a) ((~~Situations where the~~)) The recipient is a parent or other relative personally providing care for a child under the age of six years, and formal or informal child care, or day care for an incapacitated individual living in the same home as a dependent child, is necessary for an individual to participate or continue participation in the program or accept employment, and such care is not available, and the department fails to provide such care; ((~~or~~)) (b) the recipient is a parent with a child under the age of two years; or (c) the recipient is experiencing a hardship as defined by the department in rule.

(2) A parent claiming a good cause exemption from WorkFirst participation under subsection (1)(b) of this section may be required to participate in one or more of the following, up to a maximum total of twenty hours per week, if such treatment, services, or training is indicated by the comprehensive evaluation or other assessment:

(a) Mental health treatment;

(b) Alcohol or drug treatment;

(c) Domestic violence services; or

(d) Parenting education or parenting skills training, if available.

(3) The department shall: (a) Work with a parent claiming a good cause exemption under subsection (1)(b) of this section to identify and access programs and services designed to improve parenting skills and promote child

well-being, including but not limited to home visitation programs and services; and (b) provide information on the availability of home visitation services to temporary assistance for needy families caseworkers, who shall inform clients of the availability of the services. If desired by the client, the caseworker shall facilitate appropriate referrals to providers of home visitation services.

(4) Nothing in this section shall prevent a recipient from participating in the WorkFirst program on a voluntary basis.

(5) A parent is eligible for a good cause exemption under subsection (1)(b) of this section for a maximum total of ((~~twenty-four~~)) 24 months over the parent's lifetime.

Sec. 8. RCW 74.04.266 and 2011 1st sp.s. c 36 s 21 are each amended to read as follows:

In determining need for aged, blind, or disabled assistance, and medical care services, the department may by rule and regulation establish a monthly earned income exemption ((~~in an amount not to exceed the exemption allowable under disability programs authorized in Title XVI of the federal social security act~~)) as provided for in RCW 74.08A.230.

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, 2023, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 10.** Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

NEW SECTION. **Sec. 11.** Section 2 of this act expires January 1, 2024.

NEW SECTION. **Sec. 12.** Section 3 of this act takes effect January 1, 2024.

NEW SECTION. **Sec. 13.** Section 1 of this act takes effect February 1, 2024.

NEW SECTION. **Sec. 14.** Section 5 of this act takes effect August 1, 2024.

Passed by the House April 22, 2023.
Passed by the Senate April 21, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 419

[Second Substitute House Bill 1470]

PRIVATE DETENTION FACILITIES—VARIOUS PROVISIONS

AN ACT Relating to private detention facilities; amending RCW 42.56.475, 70.395.010, and 70.395.020; adding new sections to chapter 70.395 RCW; creating new sections; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.56.475 and 2022 c 272 s 1 are each amended to read as follows:

(1) The following information or records created or maintained by the department of corrections or a private detention facility is exempt from public inspection and copying under this chapter:

(a) Body scanner images from any system designed to detect and visualize contraband hidden in body cavities or beneath clothing, including backscatter X-ray, millimeter wave, and transmission X-ray systems;

(b) The following information and records created or maintained pursuant to the federal prison rape elimination act, 34 U.S.C. Sec. 30301 et seq., and its regulations:

(i) Risk assessments, risk indicators, and monitoring plans;

(ii) Reports of sexual abuse or sexual harassment, as defined under 28 C.F.R. 115.6;

(iii) Records of open prison rape elimination act investigations; and

(iv) The identities of individuals other than department of corrections or private detention facility staff, contractors, and volunteers, in closed prison rape elimination act investigation reports and related investigative materials; however, the identity of an accused individual is not exempt if the allegation is determined to have been substantiated; and

(c) Health information in records other than an incarcerated individual's or detained individual's medical, mental health, or dental files.

(2) The exemption of information or records described under subsection (1)(b) and (c) of this section does not apply to requests by the incarcerated individual or detained individual who is the subject of the information, a requestor with the written permission of the incarcerated individual or detained individual who is the subject of the information, or a personal representative of an incarcerated individual or detained individual who is the subject of the information. In response to such requests, the department of corrections or private detention facility may withhold information revealing the identity of other incarcerated or detained individuals.

(3) An agency refusing, in whole or in part, inspection of a public record containing information listed in subsection (1)(c) of this section may cite to subsection (1)(c) of this section, without further explanation, when providing the brief explanation required by RCW 42.56.210(3), and shall also identify the number of pages withheld, if any pages are withheld in their entirety.

(4) For purposes of this section:

(a) "Health information" means any information that identifies or can readily be associated with the identity of an incarcerated individual or detained individual and directly relates to the following: Medical, mental health, or dental diagnoses or conditions; medical, mental health, or dental services, treatments, or procedures, including requests for or complaints about such services, treatments, or procedures; transgender, intersex, nonbinary, or gender nonconforming status; sexual orientation; genital anatomy; or gender-affirming care or accommodations other than an incarcerated individual's or detained individual's preferred name, pronouns, and gender marker.

(b) The following information is not "health information" under this section: (i) Health care information subject to RCW 42.56.360(2) and chapter 70.02 RCW; and (ii) information related to injuries, other than injuries related to medical procedures or genital anatomy, contained in incident reports, infraction

records, or use of force reports, prepared by department of corrections or private detention facility staff other than health care providers.

(c) "Incarcerated individual" has the same meaning as "inmate" under RCW 72.09.015 and includes currently or formerly incarcerated individuals.

(d) "Detained individual" means a person confined in a private detention facility.

(e) "Private detention facility" has the same meaning as in RCW 70.395.020.

(5) A private detention facility operating pursuant to a contract with a state or local agency is subject to the requirements of this chapter.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.395 RCW to read as follows:

(1) The department of health shall adopt rules as may be necessary to effectuate the intent and purposes of this section in order to ensure private detention facilities comply with measurable standards providing sanitary, hygienic, and safe conditions for detained persons. The department of health rules shall include that:

(a) A detained person should have a safe, clean, and comfortable environment that allows a detained person to use the person's personal belongings to the extent possible;

(b) Living areas, including areas used for sleeping, recreation, dining, telecommunications, visitation, and bathrooms, must be cleaned and sanitized regularly;

(c) A private detention facility must provide laundry facilities, equipment, handling, and processes for linen and laundered items that are clean and in good repair, adequate to meet the needs of detained persons, and maintained according to the manufacturer's instructions. Laundry and linen must be handled, cleaned, and stored according to acceptable methods of infection control including preventing contamination from other sources. Separate areas for handling clean laundry and soiled laundry must be provided and laundry rooms and areas must be ventilated to the exterior;

(d) Basic personal hygiene items must be provided to a detained person regularly at no cost;

(e) A private detention facility shall provide a nutritious and balanced diet, including fresh fruits and vegetables, and shall recognize a detained person's need for a special diet. A private detention facility must follow proper food handling and hygiene practices. A private detention facility must provide at least three meals per day, at no cost, and at reasonable hours;

(f) Safe indoor air quality must be maintained;

(g) The private detention facility must have both heating and air conditioning equipment that can be adjusted by room or area. Rooms used by a detained person must be able to maintain interior temperatures between 65 degrees Fahrenheit and 78 degrees Fahrenheit year-round. Excessive odors and moisture must be prevented in the building; and

(h) A private detention facility must implement and maintain an infection control program that prevents the transmission of infections and communicable disease among detained persons, staff, and visitors.

(2) The office of the attorney general may enforce violations of this section on its own initiative or in response to complaints or violations.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.395 RCW to read as follows:

(1) The department of health shall:

(a) Conduct routine, unannounced inspections of private detention facilities including, but not limited to, inspection of food service and food handling, sanitation and hygiene, and nutrition as provided in (c) of this subsection;

(b) Conduct investigations of complaints received relating to any private detention facility located within the state;

(c) Regularly review the list of food items provided to detained persons to ensure the specific nutrition and calorie needs of each detained person are met, including any needs related to medical requirements, food allergies, or religious dietary restrictions;

(d) Test water used for drinking and bathing and air quality every six months at private detention facilities both inside and outside of the facility; and

(e) Post inspection results on its website and in a conspicuous place viewable by detained persons and visitors to private detention facilities. Results should be posted in English and in languages spoken by detainees, to the extent practicable.

(2) The department of health may delegate food safety inspections to the local health jurisdiction, where the local health jurisdiction is in the county where the private detention facility is located, to conduct inspections pursuant to regulations.

(3) The department of health shall adopt rules as may be necessary to effectuate the intent and purposes of this section in order to ensure private detention facilities allow regular inspections and comply with measurable standards providing sanitary, hygienic, and safe conditions for detained persons.

(4) The department of labor and industries shall conduct routine, unannounced inspections of workplace conditions at private detention facilities, including work undertaken by detained persons.

(5) The office of the attorney general may enforce violations of this section on its own initiative or in response to complaints or violations.

NEW SECTION. **Sec. 4.** A new section is added to chapter 70.395 RCW to read as follows:

(1) This section does not apply to private detention facilities operating pursuant to a valid contract that was in effect prior to January 1, 2023, for the duration of that contract, not to include any extensions or modifications made to, or authorized by, that contract.

(2) A private detention facility operating pursuant to a contract or agreement with a federal, state, or local government shall comply with the following:

(a) A detained person, upon admission to a private detention facility, must be issued new clothing and new footwear for both indoor and outdoor use and for protection against cold and heat. Clothing issued must be regularly laundered and replaced at no cost once no longer hygienic or serviceable;

(b) Any food items in the commissary must be available at reasonable prices taking into account the income and financial circumstances of detained persons;

(c) Telecommunications services must be provided free of charge to detained persons and any communication, whether initiated or received through such a service, must be free of charge to the detained person initiating or receiving the communication. Each detained person must be eligible to use these

telecommunications services for at least 60 minutes on each day of the person's detainment. Private detention facilities must not use the provision of telecommunications services or any other communication service to supplant in-person contact visits any detained person may be eligible to receive;

(d) In-person visitation must be available daily. Visitation rooms must allow for the presence of children and personal contact between visiting persons and detained persons may not be restricted. A detained person may receive reading and writing materials during visitation;

(e) Solitary confinement is prohibited;

(f) Televisions must be available and accessible to a detained person at no cost. The private detention facility shall make every effort to make television programming available in the language of the detained person;

(g) Handheld radios must be provided to a detained person at no cost;

(h) A detained person may invite persons to the private detention facility to provide legal education, know your rights presentations, and other similar programming;

(i) Computer and internet access must be available and accessible to a detained person at no cost;

(j) A law library must be available and accessible;

(k) Communication from the private detention facility to a detained person, either in writing or verbally, must be delivered in the primary language of the detained person;

(l) Sexual violence and harassment grievances must be responded to immediately by culturally competent professionals on-site and reported to local law enforcement in the county where the private detention facility is located;

(m) Mental health evaluations should occur at intake and periodically, at least once a week. Culturally competent mental health therapy must be available and free;

(n) Requested medical care and attention must be provided without delay, including the provision of requested medical accommodations;

(o) Rooms used by a detained person for sleeping must have access to windows, natural light, and natural air circulation. Subject to safety limitations, sleeping rooms must include adjustable curtains, shades, blinds, or the equivalent installed at the windows for visual privacy and that are shatterproof, screened, or of the security type as determined by the private detention facility needs; and

(p) A private detention facility must be equipped to respond to natural and human-made emergencies, including earthquakes, lahar threats, tsunami, and industrial accidents. A private detention facility must be earthquake resistant. A private detention facility shall develop emergency operation and continuity of operations plans and provide those plans to the local emergency management department. A private detention facility must stock all necessary personal protective equipment in case of disease outbreaks consistent with large numbers of people detained in close contact to one another.

(3) The office of the attorney general may enforce violations of this section on its own initiative or in response to complaints or violations.

NEW SECTION. **Sec. 5.** A new section is added to chapter 70.395 RCW to read as follows:

(1) A detained person aggrieved by a violation of this chapter has a right of action in superior court and may recover for each violation as follows:

(a) Against any person who negligently violates a provision of this chapter, $1,000, or actual damages, whichever is greater, for each violation;

(b) Against any person who intentionally or recklessly violates a provision of this chapter, $10,000, or actual damages, whichever is greater, for each violation;

(c) Reasonable attorneys' fees and costs if the detained person is the prevailing party; and

(d) Other relief, including an injunction, as the court may deem appropriate. Injunctive relief may be issued without bond in the discretion of the court, notwithstanding any other requirement imposed by statute.

(2) Any action under this chapter is barred unless the action is commenced within three years after the cause of action accrues.

(3) For the purposes of this section, "person" means an owner, operator, contractor, subcontractor, or employee of a private detention facility.

(4) The state and its agencies are not liable for a violation of this chapter.

NEW SECTION. **Sec. 6.** A new section is added to chapter 70.395 RCW to read as follows:

(1) Any person who fails to comply with this chapter may be subject to a civil penalty in an amount of not more than $1,000 per violation per day.

(2) Subject to the availability of amounts appropriated for this specific purpose, the secretary of the department of health may adopt by rule a penalty matrix that establishes procedures for civil penalties assessed under this chapter.

(3) Each violation is a separate and distinct offense. The department of health shall impose the civil penalty in accordance with chapter 34.05 RCW. Moneys collected under this section must be deposited into the state general fund.

(4) If the civil penalty is not paid to the department of health within 15 days after receipt of notice, the office of the attorney general may bring an action to recover the penalty in the name of the state of Washington in the superior court of Thurston county or in the county where the private detention facility is located. In all such actions, the procedure and rules of evidence are the same as in ordinary civil actions. All penalties recovered by the attorney general under this chapter must be paid into the Washington state attorney general humane detention account created in section 7 of this act.

(5) For the purposes of this section, "person" means an owner, operator, contractor, subcontractor, or employee of a private detention facility.

(6) The state and its agencies are not liable for a violation of this chapter.

NEW SECTION. **Sec. 7.** A new section is added to chapter 70.395 RCW to read as follows:

The Washington state attorney general humane detention account is created in the custody of the state treasurer. All receipts from civil penalties under section 6 of this act must be deposited in the account. Only the attorney general or the attorney general's designee may authorize expenditures from the account. Moneys in the account must be used exclusively for the costs associated with the attorney general's enforcement of the provisions of this chapter governing the

recovery of civil penalties. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 8. RCW 70.395.010 and 2021 c 30 s 1 are each amended to read as follows:

(1) The legislature finds that all people confined in prisons and detention facilities in Washington deserve basic health care, nutrition, and safety. As held in *United States v. California*, 921 F.3d 865, 886 (9th Cir. 2019), states possess "the general authority to ensure the health and welfare of inmates and detainees in facilities within its borders." States have broad authority to enforce generally applicable health and safety laws against contractors operating private detention facilities within the state. The ninth circuit reinforced this authority in *Geo Group, Inc. v. Newsom*, 50 F.4th 745, 750 (9th Cir. 2022), stating "[p]rivate contractors do not stand on the same footing as the federal government, so states can impose many laws on federal contractors that they could not apply to the federal government itself."

(2) The legislature finds that profit motives lead private prisons and detention facilities to cut operational costs, including the provision of food, health care, and rehabilitative services, because their primary fiduciary duty is to maximize shareholder profits. This is in stark contrast to the interests of the state to ensure the health, safety, and welfare of Washingtonians, including all inmates and detainees within Washington's borders.

(3) The legislature finds that people confined in for-profit prisons and detention facilities have experienced abuses and have been confined in dangerous and unsanitary conditions. Safety risks and abuses in private prisons and detention facilities at the local, state, and federal level have been consistently and repeatedly documented. The United States department of justice office of the inspector general found in 2016 that privately operated prisons "incurred more safety and security incidents per capita than comparable BOP [federal bureau of prisons] institutions." The office of inspector general additionally found that privately operated prisons had ((~~"higher rates of inmate-on-inmate and inmate-on-staff assaults, as well as~~)) higher rates of staff uses of force and that people detained in private prisons submitted more safety and security related grievances, including those regarding the quality of food.((~~"~~))

(4) The legislature finds that private prison operators have cut costs by reducing essential security and health care staffing. The sentencing project, a national research and advocacy organization, found in 2012 that private prison staff earn an average of five thousand dollars less than staff at publicly run facilities and receive almost 60 hours less training. The office of inspector general also found that people confined in private facilities often failed to receive necessary medical care and that one private prison went without a full-time physician for eight months. People confined within private detention facilities are subjected to prolonged periods of confinement, inadequate nutrition, medical and mental health access issues, and arbitrary and improper visitation and communication restrictions. In 2018, the sentencing project, a national research and advocacy organization, found that private prisons offer lower quality services and have higher staff turnover rates compared to publicly operated facilities. The office of inspector general also found that people confined in private facilities often failed to receive necessary medical care.

(5) The legislature finds that private prisons and detention centers are less accountable for what happens inside those facilities than state-run facilities, as they are not subject to the freedom of information act under 5 U.S.C. Sec. 552 or the Washington public records act under chapter 42.56 RCW.

(6) The legislature finds that at least 22 other states have stopped confining people in private for-profit facilities.

(7) Therefore, it is the intent of the legislature to prohibit the use of private, for-profit prisons and detention facilities in the state, and to set minimum standards for the conditions of confinement within private detention facilities in the state and to require the inspection and review of those facilities by appropriate state or local agencies to ensure public health and safety.

Sec. 9. RCW 70.395.020 and 2021 c 30 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) "Basic personal hygiene items" means items used to promote or preserve a detained person's health and contribute to the prevention of disease or infection, including soap, toothbrush and toothpaste, shampoo and conditioner, lotion, nail clippers, comb, towels, and menstrual products.

(2) "Culturally competent" includes: Knowledge of a detained person's cultural histories and contexts, as well as family norms and values in different cultures; knowledge and skills in accessing community resources and community outreach; and skills in adapting services and treatment to a detained person's experiences and identifying cultural contexts for individuals.

(3) "Detained person" means a person confined in a private detention facility.

(4) "Detention facility" means any facility in which persons are incarcerated or otherwise involuntarily confined for purposes including prior to trial or sentencing, fulfilling the terms of a sentence imposed by a court, or for other judicial or administrative processes or proceedings.

((~~(2)~~)) (5) "Fresh fruits and vegetables" means any unprocessed fruits or vegetables, not including any processed, canned, frozen, or dehydrated fruits or vegetables, or any fruits or vegetables infected or infested with insects or other contaminants.

(6)(a) "Personal protective equipment" means equipment worn to minimize exposure to hazards that cause serious injuries and illness, which may result from contact with chemical, radiological, physical, electrical, mechanical, or other hazards.

(b) Personal protective equipment may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, or coveralls, vests, and full body suits.

(7) "Private detention facility" means a detention facility that is operated by a private, nongovernmental for-profit entity and operating pursuant to a contract or agreement with a federal, state, or local governmental entity.

(8) "Solitary confinement" means the confinement of a detained person alone in a cell or similarly confined holding or living space for 20 hours or more per day under circumstances other than a partial or facility wide lockdown.

(9) "Telecommunications services" means phone calls or other voice communication services, video communications, and email services.

NEW SECTION. **Sec. 10.** Sections 2 through 6 of this act do not apply to a facility that is:

(1) Providing rehabilitative, counseling, treatment, mental health, educational, or medical services to juveniles who are subject to Title 13 RCW, or similarly applicable federal law;

(2) Providing evaluation and treatment or forensic services to a person who has been civilly detained or is subject to an order of commitment by a court pursuant to chapter 10.77, 71.05, 71.09, or 71.34 RCW, or similarly applicable federal law, including facilities regulated under chapters 70.41, 71.12, and 71.24 RCW;

(3) Used for the quarantine or isolation of persons for public health reasons pursuant to RCW 43.20.050, or similarly applicable federal law;

(4) Used for work release under chapter 72.65 RCW, or similarly applicable federal law;

(5) Used for extraordinary medical placement;

(6) Used for residential substance use disorder treatment; or

(7) Owned and operated by federally recognized tribes and contracting with a government.

NEW SECTION. **Sec. 11.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 12.** This act shall be construed liberally for the accomplishment of the purposes thereof.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 14.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 21, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 420

[Second Substitute House Bill 1550]

TRANSITION TO KINDERGARTEN PROGRAM

AN ACT Relating to assisting eligible children in need of additional preparation to be successful in kindergarten by replacing transitional kindergarten with a legislatively established and authorized transition to kindergarten program; amending RCW 28A.225.160 and 43.88C.010; adding a new section to chapter 28A.300 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The intent of the legislature is to continue and rename transitional kindergarten as the transition to kindergarten program and that the program be

established in statute with the goal of assisting eligible children in need of additional preparation to be successful kindergarten students in the following school year. The transition to kindergarten program is not part of the state's statutory program of basic education under RCW 28A.150.200.

(2)(a) The office of the superintendent of public instruction shall administer the transition to kindergarten program and shall adopt rules under chapter 34.05 RCW for the administration of, the allocation of state funding for, and minimum standards and requirements for the transition to kindergarten program. Initial rules, which include expectations for school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools transitioning existing programs to the new requirements established in this section must be adopted in time for the 2023-24 school year, and permanent rules must be adopted by the beginning of the 2024-25 school year.

(b) School districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools operating a transition to kindergarten program shall adopt policies regarding eligibility, recruitment, and enrollment for this program that, at a minimum, meet the requirements of subsection (3) of this section.

(3) The rules adopted under subsection (2) of this section must include, at a minimum, the following requirements for school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools operating a transition to kindergarten program:

(a)(i) A limitation on program enrollment to eligible children. Eligible children include only those who:

(A) Have been determined to benefit from additional preparation for kindergarten; and

(B) Are at least four years old by August 31st of the school year they enroll in the transition to kindergarten program.

(ii) A requirement, as practicable, for school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools to prioritize families with the lowest incomes and children most in need for additional preparation to be successful in kindergarten when enrolling eligible children in a transition to kindergarten program;

(iii) Access to the transition to kindergarten program does not constitute an individual entitlement for any particular child.

(b) Except for children who have been excused from participation by their parents or legal guardians, a requirement that the Washington kindergarten inventory of developing skills as established by RCW 28A.655.080 be administered to all eligible children enrolled in a transition to kindergarten program at the beginning of the child's enrollment in the program and at least one more time during the school year.

(c) A requirement that all eligible children enrolled in a transition to kindergarten program be assigned a statewide student identifier and that the transition to kindergarten program be considered a separate class or course for the purposes of data reporting requirements in RCW 28A.320.175.

(d) A requirement that a local child care and early learning needs assessment is conducted before beginning or expanding a transition to kindergarten program that considers the existing availability and affordability of early learning providers, such as the early childhood education and assistance

programs, head start programs, and licensed child care centers and family home providers in the region. Data available through the regionalized data dashboard maintained by the department of children, youth, and families or any other appropriate sources may be used to inform the needs assessment required by this subsection.

(e)(i) A requirement that school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools adhere to guidelines, as developed by the office of the superintendent of public instruction, related to:

(A) Best practices for site readiness of facilities that are used for the program;

(B) Developmentally appropriate curricula designed to assist in maintaining high quality programs; and

(C) Professional development opportunities.

(ii) The office of the superintendent of public instruction must develop a process for conducting site visits of any school district, charter school as allowed by subsection (7) of this section, or state-tribal education compact school operating a transition to kindergarten program and provide feedback on elements listed in this subsection (3)(e).

(f) A prohibition on charging tuition or other fees to state-funded eligible children for enrollment in a transition to kindergarten program.

(g) A prohibition on establishing a policy of excluding an eligible child due only to the presence of a disability.

(4)(a) The office of the superintendent of public instruction, in collaboration with the department of children, youth, and families, shall develop statewide coordinated eligibility, recruitment, enrollment, and selection best practices and provide technical assistance to those implementing a transition to kindergarten program to support connections with local early learning providers.

(b) School districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools must consider the best practices developed under this subsection (4) when adopting the policies required under subsection (2)(b) of this section.

(5) Nothing in this section prohibits school districts, charter schools as allowed by subsection (7) of this section, and state-tribal education compact schools from blending or colocating a transition to kindergarten program with other early learning programs.

(6)(a) Funding for the transition to kindergarten program must be based on the following:

(i) The distribution formula established under RCW 28A.150.260 (4)(a), (5), (6), (8), and (10)(a) and (b), calculated using the actual number of annual average full-time equivalent eligible children enrolled in the program. A transition to kindergarten child must be counted as a kindergarten student for purposes of the funding calculations referenced in this subsection, but must be reported separately.

(ii) The distribution formula developed in RCW 28A.160.150 through 28A.160.192, calculated using reported ridership for eligible children enrolled in the program.

(b) Funding provided for the transition to kindergarten program is not part of the state's statutory program of basic education under RCW 28A.150.200 and

must be expended only for the support of operating a transition to kindergarten program.

(7) Charter schools authorized under RCW 28A.710.080(2) are immediately permitted to operate a transition to kindergarten program under this section. Beginning with the 2025-26 school year, any charter school authorized under RCW 28A.710.080 (1) or (2) is permitted to operate a transition to kindergarten program under this section.

Sec. 2. RCW 28A.225.160 and 2009 c 380 s 3 are each amended to read as follows:

(1) Except as provided in subsection ((~~(2)~~)) (3) of this section and otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than ((~~twenty-one~~)) 21 years residing in that school district. Except as otherwise provided by law or rules adopted by the superintendent of public instruction, districts may establish uniform entry qualifications, including but not limited to birthdate requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for individualized exceptions based upon the ability, or the need, or both, of an individual student. Nothing in this section authorizes school districts, public schools, or the superintendent of public instruction to create state-funded programs based on entry qualification exceptions except as otherwise expressly provided by law.

(2) For the purpose of complying with any rule adopted by the superintendent of public instruction that authorizes a preadmission screening process as a prerequisite to granting individualized exceptions to the uniform entry qualifications, a school district may collect fees to cover expenses incurred in the administration of any preadmission screening process: PROVIDED, That in so establishing such fee or fees, the district shall adopt rules for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees.

((~~(2)~~)) (3) A student who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010 shall be permitted to continue enrollment at the grade level in the common schools commensurate with the grade level of the student when attending school in the sending state as defined in Article II of RCW 28A.705.010, regardless of age or birthdate requirements.

NEW SECTION. **Sec. 3.** (1) The department of children, youth, and families must make administrative changes to better align early childhood education and assistance program implementation with state-funded early learning programs serving three through five-year old children offered by school districts, charter schools authorized under RCW 28A.710.080(2), and state-tribal education compact schools. The department must submit a report, in compliance with RCW 43.01.036, of the administrative changes to the appropriate committees of the legislature by July 1, 2024.

(2) This section expires August 30, 2025.

Sec. 4. RCW 43.88C.010 and 2022 c 219 s 2 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of

whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of students who are eligible for the Washington college grant program under RCW 28B.92.200 and 28B.92.205 and are expected to attend an institution of higher education as defined in RCW 28B.92.030; and

(d) The number of children who are eligible, as defined in RCW 43.216.505, to participate in, and the number of children actually served by, the early childhood education and assistance program.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) By January 1, 2023, the caseload forecast council shall present the number of individuals who are assessed as eligible for and have requested a service through the individual and family services waiver and the basic plus

waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(10) Beginning with the official forecast submitted in November 2022 and subject to the availability of amounts appropriated for this specific purpose, the caseload forecast council shall forecast the number of individuals who are assessed as eligible for and have requested supported living services, a service through the core waiver, an individual and family services waiver, and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(11) As a courtesy, beginning with the official forecast submitted in November 2022, the caseload forecast council shall forecast the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration.

(12) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

(13) The caseload forecast council shall forecast the number of youth expected to receive behavioral rehabilitation services while involved in the foster care system and the number of screened in reports of child abuse or neglect.

(14) The caseload forecast council shall forecast eligible children participating in the transition to kindergarten program under section 1 of this act.

(15) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

(((~~(15)~~))) (16) During the 2021-2023 fiscal biennium, and beginning with the November 2021 forecast, the caseload forecast council shall produce an unofficial forecast of the long-term caseload for juvenile rehabilitation as a courtesy.

Passed by the House April 23, 2023.
Passed by the Senate April 23, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 421

[Second Substitute House Bill 1559]

STUDENT BASIC NEEDS—PUBLIC POSTSECONDARY INSTITUTIONS

AN ACT Relating to the student basic needs at public postsecondary institutions act; adding a new section to chapter 28B.10 RCW; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** In 2022, students at 39 colleges and universities across Washington state participated in a survey about basic needs insecurities, including access to food, housing, child care, and more. The survey found that nearly half of all students in all regions of the state experienced some type of

basic needs insecurity. One in every three students experienced either food insecurity or housing insecurity. One in every 10 students had also experienced homelessness in the previous 12 months. Some students experienced these insecurities at higher rates than others, and former foster youth had the highest rates of basic needs insecurities with 75 percent experiencing either food or housing insecurity. Addressing basic needs challenges for students contributes to their ability to remain enrolled and pursue their educational goals as evidenced by data from the two student support programs the legislature previously enacted, the student emergency assistance grant program and the supporting students experiencing homelessness pilot program. When students received this assistance, an average of 88 percent of them were able to persist in their programs.

Therefore, the legislature intends to continue to support students and help students meet their basic needs by increasing access to resources and support services.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, each institution of higher education, the university campuses created under chapter 28B.45 RCW, and the tribal college must have a minimum of one benefits navigator employed at a minimum .75 full-time equivalent rate, not to be divided between two or more staff, to assist students in accessing public benefits, existing emergency assistance programs such as those funded by RCW 28B.50.295, and other community resources. Each benefits navigator must be stationed at a single location on campus where students are directed to receive assistance. The institutions of higher education and the tribal college, in coordination with the respective benefits navigators, must each develop a hunger-free and basic needs campus strategic plan by April 1, 2024. Each strategic plan must:

(a) Identify campus food pantry policies that, in practice, create barriers to access and reduce or remove those barriers in the implementation of this subsection;

(b) Review and update methods to identify likely low-income and food-insecure students and conduct communications and outreach methods by the institution to promote opportunities for benefits assistance (such as basic food enrollment, working connections child care enrollment, referrals to the special supplemental nutrition program for women, infants, and children, affordable housing assistance) and emergency financial resources;

(c) Assess the needs and advantages of the benefits navigators;

(d) Identify opportunities for the institution and partnerships with community-based organizations to holistically support students' basic needs, access to benefits and community resources;

(e) Facilitate discussions and generate recommendations amongst community stakeholders on the basic needs of the institution's geographic postsecondary student population; and

(f) Assess the distribution of state funds for basic needs support provided to institutions of higher education and the tribal college.

(2) By the beginning of the 2024-25 academic year, the Washington student achievement council must collect and disseminate results of a student survey

developed by the student achievement council, in collaboration with the state board for community and technical colleges and an organization representing the presidents of the public four-year institutions of higher education, to assess food security, housing security, and access to basic economic supports. Results from the survey may be used by the institutions of higher education and the tribal college. Existing survey tools may be used for this purpose.

(3) Public four-year institutions of higher education and their respective university campuses shall coordinate with an organization representing the presidents of the public four-year institutions to submit a report that must include outcomes from implementation of benefits navigators and findings and activities from their respective hunger-free and basic needs campus strategic plans. The community and technical colleges shall coordinate with the state board for community and technical colleges to submit a report that must include outcomes from implementation of benefits navigators and findings and activities from their respective hunger-free and basic needs campus strategic plans. The organizations representing the presidents of the public four-year institutions and the state board for community and technical colleges must submit the reports by December 1, 2025, and every other year thereafter, to the appropriate committees of the legislature in accordance with RCW 43.01.036.

(4) The tribal college shall submit a report that must include the findings and activities from implementation of the benefits navigator and findings and activities from the hunger-free and basic needs campus strategic plan. The tribal college must submit the report by December 1, 2025, and every other year thereafter, to the appropriate committees of the legislature in accordance with RCW 43.01.036.

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

(a) "Benefits navigator" means an individual who is employed by an institution of higher education for the purpose of helping students seek, apply for, and receive assistance from benefits programs, emergency resources, and community resources.

(b) "Institutions of higher education" has the same meaning as in RCW 28B.10.016.

(c) "Student basic needs" means food, water, shelter, clothing, physical health, mental health, child care, or similar needs that students enrolled at an institution of higher education or tribal college may face difficulty with and that hinders their ability to begin or continue their enrollment.

(d) "Tribal colleges" means institutions of higher education operated by an Indian tribe as defined in RCW 43.376.010.

NEW SECTION. **Sec. 3.** (1) Subject to the availability of amounts appropriated for this specific purpose, a pilot program to provide free and low-cost meal plans or food vouchers to eligible low-income students is established at:

(a) Four college districts, two on each side of the crest of the Cascade mountains, selected by the state board for community and technical colleges; and

(b) Two public four-year institutions of higher education, one on each side of the crest of the Cascade mountains, selected by an organization representing the presidents of public four-year institutions.

(2) The pilot program expires July 1, 2026.

(3) This section expires January 1, 2027.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 20, 2023.
Passed by the Senate April 20, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 422

[House Bill 1573]

DAIRY, FRUIT AND VEGETABLE, AND SEAFOOD PROCESSORS—BUSINESS AND OCCUPATION TAX PREFERENCES—EXTENSION

AN ACT Relating to extending tax preferences for dairy, fruit and vegetable, and seafood processors; amending RCW 82.04.4268, 82.04.4266, 82.04.4269, and 82.04.260; creating a new section; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) This section is the tax preference performance statement for the tax preferences contained in sections 2 through 5, chapter . . ., Laws of 2023 (sections 2 through 5 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to create or retain jobs and provide tax relief for certain businesses or individuals as indicated in RCW 82.32.808(2) (c) and (e).

(3) It is the legislature's specific public policy objective to create and retain jobs and continue providing tax relief to the food processing industry.

(4) To measure the effectiveness of the exemptions in sections 2 through 5 of this act in achieving the public policy objectives described in subsection (3) of this section, the joint legislative audit and review committee must evaluate the following:

(a) The number of businesses that claim the exemptions in sections 2 through 5 of this act;

(b) The change in total taxable income for taxpayers claiming the exemptions under sections 2 through 5 of this act;

(c) The change in total employment for taxpayers claiming the exemptions under sections 2 through 5 of this act; and

(d) For each calendar year, the total amount of exemptions claimed under sections 2 through 5 of this act as a percentage of total taxable income for taxpayers within taxable income categories.

(5) The information provided in the annual report submitted by the taxpayers under RCW 82.32.534, tax data collected by the department of revenue, and data collected by the employment security department is intended to provide the informational basis for the evaluation under subsection (4) of this section.

(6) In addition to the data sources described under subsection (5) of this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under subsection (4) of this section.

Sec. 2. RCW 82.04.4268 and 2020 c 139 s 6 are each amended to read as follows:

(1)(a) In computing tax there may be deducted from the measure of tax, the value of products or the gross proceeds of sales derived from:

((~~(a)~~)) (i) Manufacturing dairy products; or

((~~(b) Selling~~)) (ii) Except as provided otherwise in (b) of this subsection, selling dairy products manufactured by the seller to purchasers who either transport in the ordinary course of business the goods out of this state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product. A person taking an exemption under this subsection (1)((~~(b)~~)) (a)(ii) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(b) The exemption provided under (a)(ii) of this subsection does not apply to the sales of dairy products on or after July 1, 2025, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product.

(2) "Dairy products" has the same meaning as provided in RCW 82.04.260.

(3) A person claiming the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires July 1, ((~~2025~~)) 2035.

Sec. 3. RCW 82.04.4266 and 2022 c 16 s 142 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) For purposes of this section, "fruits" and "vegetables" do not include cannabis, useable cannabis, or cannabis-infused products.

(3) A person claiming the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires July 1, ((~~2025~~)) 2035.

Sec. 4. RCW 82.04.4269 and 2020 c 139 s 7 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or

(b) Selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) A person claiming the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) This section expires July 1, ((~~2025~~)) 2035.

Sec. 5. RCW 82.04.260 and 2022 c 16 s 140 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, ((~~2025~~)) 2035, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c)(i) Except as provided otherwise in (c)(iii) of this subsection, ((~~from~~)) beginning July 1, ((~~2025~~)) 2035, until January 1, ((~~2036~~)) 2046, dairy products; or selling dairy products that the person has manufactured to purchasers who either transport in the ordinary course of business the goods out of state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(ii) For the purposes of this subsection (1)(c), "dairy products" means:

(A) Products, not including any cannabis-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than ((~~seventy~~)) 70 percent dairy products that qualify under (c)(ii)(A) of this subsection, measured by weight or volume.

(iii) The preferential tax rate provided to taxpayers under this subsection (1)(c) does not apply to sales of dairy products on or after July 1, 2023, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product;

(d)(i) Beginning July 1, ((~~2025~~)) 2035, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(ii) For purposes of this subsection (1)(d), "fruits" and "vegetables" do not include cannabis, useable cannabis, or cannabis-infused products; and

(e) Wood biomass fuel; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent. For the purposes of this section, "wood biomass fuel" means a liquid or gaseous fuel that is produced from lignocellulosic feedstocks, including wood, forest, or field residue and dedicated energy crops, and that does not include wood treated with chemical preservations such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)(a) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was ((~~two hundred fifty thousand dollars~~)) $250,000 or less; as to such persons the amount of the tax with respect to such

activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(b) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was more than ((~~two hundred fifty thousand dollars~~)) $250,000; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent through June 30, 2019, and 0.9 percent beginning July 1, 2019.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 70A.380.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 70A.384 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007;

(ii) 0.2904 percent beginning July 1, 2007, through March 31, 2020; and

(iii) Beginning April 1, 2020, 0.484 percent, subject to any reduction required under (e) of this subsection (11). The tax rate in this subsection (11)(a)(iii) applies to all business activities described in this subsection (11)(a).

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.2904 percent through March 31, 2020; and

(ii) Beginning April 1, 2020, the following rates, which are subject to any reduction required under (e) of this subsection (11):

(A) The rate under RCW 82.04.250(1) on the business of making retail sales of tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes; and

(B) 0.484 percent on all other business activities described in this subsection (11)(b).

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d)(i) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual tax performance report with the department under RCW 82.32.534. However, this requirement does not apply to persons reporting under the tax rate in (a)(iii) of this subsection (11), so long as that rate remains 0.484 percent, or under any of the tax rates in (b)(ii)(A) and (B) of this subsection (11), so long as those tax

rates remain the rate imposed pursuant to RCW 82.04.250(1) and 0.484 percent, respectively.

(ii) Nothing in (d)(i) of this subsection (11) may be construed as affecting the obligation of a person reporting under a tax rate provided in this subsection (11) to file a complete annual tax performance report with the department under RCW 82.32.534: (A) Pursuant to another provision of this title as a result of claiming a tax credit or exemption; or (B) pursuant to (d)(i) of this subsection (11) as a result of claiming the tax rates in (a)(ii) or (b)(i) of this subsection (11) for periods ending before April 1, 2020.

(e)(i) After March 31, 2021, the tax rates under (a)(iii) and (b)(ii) of this subsection (11) must be reduced to 0.357 percent provided the conditions in RCW 82.04.2602 are met. The effective date of the rates authorized under this subsection (11)(e) must occur on the first day of the next calendar quarter that is at least ((~~sixty~~)) 60 days after the department receives the last of the two written notices pursuant to RCW 82.04.2602 (3) and (4).

(ii) Both a significant commercial airplane manufacturer separately and the rest of the aerospace industry as a whole, receiving the rate of 0.357 percent under this subsection (11)(e) are subject to the aerospace apprenticeship utilization rates required under RCW 49.04.220 by April 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under this subsection (11)(e), whichever is later, as determined by the department of labor and industries.

(iii) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this subsection (11)(e).

(f)(i) Except as provided in (f)(ii) of this subsection (11), this subsection (11) does not apply on and after July 1, 2040.

(ii) With respect to the manufacturing of commercial airplanes or making sales, at retail or wholesale, of commercial airplanes, this subsection (11) does not apply on and after July 1st of the year in which the department makes a determination that any final assembly or wing assembly of any version or variant of a commercial airplane that is the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850 has been sited outside the state of Washington. This subsection (11)(f)(ii) only applies to the manufacturing or sale of commercial airplanes that are the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850. This subsection (11)(f)(ii) continues to apply during the time that a person is subject to the tax rate in (a)(iii) of this subsection (11).

(g) For the purposes of this subsection, "a significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least ((~~fifty thousand~~)) 50,000 full-time employees in Washington as of January 1, 2021.

(12)(a) Until July 1, 2045, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(b) Until July 1, 2045, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined in RCW 19.27.570(1); as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(c) Until July 1, 2045, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; (iii) wood products manufactured by that person from timber or timber products; or (iv) products defined in RCW 19.27.570(1) manufactured by that person; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, wood products, or products defined in RCW 19.27.570(1) multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(d) Until July 1, 2045, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within ((~~thirty~~)) 30 months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than ((~~fifty~~)) 50 percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having ((~~fifty~~)) 50 percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual tax performance report with the department under RCW 82.32.534.

(g) Nothing in this subsection (12) may be construed to affect the taxation of any activity defined as a retail sale in RCW 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW 82.04.060(2), or taxed under RCW 82.04.280(1)(g).

(13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.35 percent until July 1, 2024, and 0.484 percent thereafter.

(b) A person reporting under the tax rate provided in this subsection (14) must file a complete annual tax performance report with the department under RCW 82.32.534.

Passed by the House March 16, 2023.
Passed by the Senate April 19, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 423

[Second Substitute House Bill 1580]

CHILDREN IN CRISIS—CHILDREN AND YOUTH MULTISYSTEM CARE COORDINATOR

AN ACT Relating to creating a system to support children in crisis; adding a new section to chapter 43.06 RCW; creating a new section; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor must maintain a children and youth multisystem care coordinator to serve as a state lead on addressing complex cases of children in crisis. The children and youth multisystem care coordinator must:

(a) Direct:

(i) The appropriate use of state and other resources to a child in crisis, and that child's family, if appropriate; and

(ii) Appropriate and timely action by state agencies to serve children in crisis;

(b) Have access to flexible funds to support:

(i) The safe discharge of children in crisis from hospitals; and

(ii) Long-term, appropriate placement for children in crisis who are dependent under chapter 13.34 RCW; and

(c) Coordinate with:

(i) The rapid response team established under RCW 43.216.205 to make sure that resources are effectively identified and mobilized for people who meet the definition of child in crisis and a youth or young adult exiting a publicly funded system of care; and

(ii) Youth behavioral health and inpatient navigator teams to efficiently and effectively mobilize services for a child in crisis.

(2) The children and youth multisystem care coordinator created under this section, in coordination with the department of children, youth, and families, the health care authority, the office of financial management, and the department of social and health services, shall develop and implement a rapid care team for the purpose of supporting and identifying appropriate services and living arrangements for a child in crisis, and that child's family, if appropriate. The rapid care team created under this section must be implemented as soon as possible, but no later than January 1, 2024.

(3) In creating the rapid care team required under this section, the children and youth multisystem care coordinator created under this section shall develop and implement a system for:

(a) Identifying children in crisis who should be served by the rapid care team;

(b) Initiating the rapid care team in a timely manner that reduces the time a child in crisis spends in a hospital without a medical need;

(c) Locating services and connecting youth and families with the appropriate services to allow the child in crisis to safely discharge from a hospital;

(d) Screening referrals for a child in crisis; and

(e) Determining when it would be appropriate for the department of children, youth, and families to provide services to a child in crisis as the:

(i) Youth meets the definition of a "child who is a candidate for foster care" under RCW 74.13.020;

(ii) Youth meets the definition of "dependent child" under RCW 13.34.030(6)(a) based on the child being abandoned; or

(iii) Family should be offered a voluntary placement agreement.

(4) The rapid care team under this section may provide assistance and support to a child in crisis, or the family of a child in crisis.

(5) The following individuals may refer a child in crisis to the rapid care team:

(a) A child in crisis themselves;

(b) A family member of the child in crisis;

(c) An advocate for the child in crisis;

(d) An educator;

(e) A law enforcement officer;

(f) An employee of the department of children, youth, and families;

(g) An employee of the department of social and health services;

(h) An employee of the health care authority;

(i) A service provider contracting with the department of children, youth, and families;

(j) A service provider contracting with the department of social and health services;

(k) A behavioral health service provider;

(l) A representative of a managed care organization;

(m) A representative from a youth behavioral health or inpatient navigator team;

(n) A person providing health care services to the child in crisis; or

(o) A hospital employee.

(6) By November 1, 2023, the governor shall provide an initial report to the legislature describing the process of developing and implementing the rapid care team created under this section, and must include a projection of when the rapid care team process will be implemented. By November 1, 2024, the governor shall provide a final report to the legislature including data and recommendations related to the rapid care team created in this section. The report required under this subsection must be submitted in compliance with RCW 43.01.036. The report required under this subsection must include the following:

(a) The number of children in crisis referred to the rapid care team and the types of people making referrals to the rapid care team;

(b) The demographic data of the children in crisis served by the rapid care team;

(c) The types of services and living arrangements identified by the rapid care team;

(d) The availability of the services and living arrangements identified as needed for the children in crisis served by the rapid care team;

(e) Any barriers that are preventing children in crisis from safely exiting the hospital setting when there is not a medical need for that hospital stay;

(f) Any barriers that are preventing children in crisis who are dependent under chapter 13.34 RCW from maintaining an appropriate and stable placement;

(g) Recommendations for earlier intervention to prevent children from becoming children in crisis;

(h) Discussion regarding the implementation of youth behavioral health and inpatient navigator programs and their role in serving children in crisis; and

(i) Recommendations for systemic changes that could replace the rapid care team in addressing complex cases involving a child in crisis.

(7) The following definitions apply to this section:

(a) "Child in crisis" means a person under age 18 who is:

(i) At risk of remaining in a hospital without medical necessity, without the ability to return to the care of a parent, and not dependent under chapter 13.34 RCW;

(ii) Staying in a hospital without medical necessity and who is unable to return to the care of a parent but is not dependent under chapter 13.34 RCW; or

(iii) Dependent under chapter 13.34 RCW, experiencing placement instability, and referred to the rapid care team by the department of children, youth, and families.

(b) "Rapid care team" means a team, whose work is managed and directed by the children and youth multisystem care coordinator created under this section, working to quickly identify the appropriate services and living arrangements for a child in crisis. A rapid care team must include:

(i) One designee from the health care authority;

(ii) One designee from the department of social and health services;

(iii) One designee from the office of financial management;

(iv) One designee from the developmental disabilities administration of the department of social and health services;

(v) One designee from the department of children, youth, and families; and

(vi) Any other entities, including governmental entities and managed care organizations, or individuals, including clinicians and other service providers, that the children and youth multisystem care coordinator deems appropriate to support a child in crisis.

(8) This section expires June 30, 2025.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

***NEW SECTION.** Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.*

**Sec. 3 was vetoed. See message at end of chapter.*

Passed by the House March 2, 2023.

Passed by the Senate April 12, 2023.

Approved by the Governor May 11, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 11, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, Second Substitute House Bill No. 1580 entitled:

"AN ACT Relating to creating a system to support children in crisis."

Section 3 is an emergency clause. The funding for this bill is not available until fiscal year 2024. Therefore, there is not a strong justification for an emergency clause.

For these reasons I have vetoed Section 3 of Second Substitute House Bill No. 1580.

With the exception of Section 3, Second Substitute House Bill No. 1580 is approved."

CHAPTER 424

[Engrossed Second Substitute House Bill 1694]

LONG-TERM CARE WORKFORCE—VARIOUS PROVISIONS

AN ACT Relating to addressing home care workforce shortages; amending RCW 18.88B.021, 74.39A.341, 18.88B.041, and 74.39A.076; reenacting and amending RCW 18.88B.010; adding new

sections to chapter 18.88B RCW; adding a new section to chapter 18.88A RCW; adding a new section to chapter 74.39A RCW; creating new sections; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.88B.010 and 2012 c 164 s 201 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community residential service business" has the same meaning as defined in RCW 74.39A.009.

(2) "Date of hire" means the first day the long-term care worker is employed by any employer.

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

(((~~(3)~~))) (4) "Home care aide" means a person certified under this chapter.

(((~~(4)~~))) (5) "Individual provider" has the same meaning as defined in RCW 74.39A.009.

(((~~(5)~~))) (6) "Long-term care worker" has the same meaning as defined in RCW 74.39A.009.

(((~~(6)~~))) (7) "Personal care services" has the same meaning as defined in RCW 74.39A.009.

(((~~(7)~~))) (8) "Secretary" means the secretary of the department of health.

Sec. 2. RCW 18.88B.021 and 2021 c 203 s 10 are each amended to read as follows:

(1) Beginning January 7, 2012, except as provided in RCW 18.88B.041, any person hired as a long-term care worker must be certified as a home care aide as provided in this chapter within ((~~two hundred~~)) 200 calendar days after the date of hire((~~, as defined by the department. The department may adopt rules determining under which circumstances a long-term care worker may have more than one date of hire, restarting the person's 200-day period to obtain certification as a home care aide~~)). A long-term care worker who is not currently certified or eligible to reactivate an expired credential shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(2)(a) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified as provided in this chapter.

(b) This section does not prohibit a person: (i) From practicing a profession for which the person has been issued a license or which is specifically authorized under this state's laws; or (ii) who is exempt from certification under RCW 18.88B.041 from providing services as a long-term care worker.

(c) In consultation with consumer and worker representatives, the department shall, by January 1, 2013, establish by rule a single scope of practice that encompasses both long-term care workers who are certified home care aides and long-term care workers who are exempted from certification under RCW 18.88B.041.

(3) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete certification as required by this section, the department may adopt rules to allow long-term care workers additional time to become certified.

(a) Rules adopted under this subsection (3) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that additional time for long-term care workers to become certified is no longer necessary, whichever is later. Once the department determines a rule adopted under this subsection (3) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of certification compliance with subsection (1) of this section and rules adopted under this subsection (3) and provide the legislature with a report.

(4) The department shall adopt rules to implement this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.88B RCW to read as follows:

(1) A certificate that has been expired for five years or less may be reinstated if the person holding the expired certificate:

(a) Completes an abbreviated application form;

(b) Pays any necessary fees, including the current certification fee, late renewal fees, and expired credential reissuance fees, unless exempt pursuant to section 4 of this act;

(c) Provides a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the person holding the expired certificate from practicing as a home care aide;

(d) Provides a written declaration that the person holding the expired certificate has not voluntarily given up any credential or privilege or has not been restricted from practicing as a home care aide in lieu of or to avoid formal action; and

(e) Submits to a state and federal background check as required by RCW 74.39A.056, if the certificate has been expired for more than one year.

(2) In addition to meeting the requirements of subsection (1) of this section, a certificate that has been expired for more than five years may be reinstated if the person holding the expired certificate demonstrates competence to the standards established by the secretary and meets other requirements established by the secretary.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.88B RCW to read as follows:

(1) Beginning September 1, 2023, a person whose home care aide certificate has been expired for more than six months and less than two years who seeks to restore the certificate to active status is exempt from the payment of any late renewal fee or current renewal fee if the person complies with all other certification requirements determined necessary by the department to return to active status.

(2) The department shall send a notification to the last known address of each person who held a certificate under this chapter and, since January 1, 2020, failed to renew the certificate to inform the person that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section. For persons who have allowed their certificates to expire since January 1, 2023, the department must allow six months to pass since the expiration prior to contacting them to inform them that a certificate may be

restored without a financial penalty or payment of a renewal fee under subsection (1) of this section.

(3) The department and the department of social and health services, as applicable, shall adopt rules to assure that continuing education requirements are not a barrier for persons seeking to reactivate their certificates under this chapter.

(4) This section expires July 1, 2025.

NEW SECTION. **Sec. 5.** A new section is added to chapter 18.88A RCW to read as follows:

(1) Beginning September 1, 2023, a person whose nursing assistant certificate has been expired for more than six months and less than two years who seeks to restore the certificate to active status is exempt from the payment of any late renewal fee or current renewal fee if the person complies with all other certification requirements determined necessary by the department to return to active status.

(2) The department shall send a notification to the last known address of each person who held a certificate under this chapter and, since January 1, 2020, failed to renew the certificate to inform the person that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section. For persons who have allowed their certificates to expire since January 1, 2023, the department must allow six months to pass since the expiration prior to contacting them to inform them that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section.

(3) The department shall adopt rules to assure that continuing education requirements are not a barrier for persons seeking to reactivate their certificates under this chapter.

(4) This section expires July 1, 2025.

Sec. 6. RCW 74.39A.341 and 2021 c 203 s 9 are each amended to read as follows:

(1) All long-term care workers shall complete twelve hours of continuing education training in advanced training topics each year. This requirement applies beginning July 1, 2012.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 18.88B RCW.

(3) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, subsection (1) of this section does not apply to:

(a) An individual provider caring only for his or her biological, step, or adoptive child;

(b) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(c) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;

(((~~(c)~~))) (d) Before January 1, 2016, a long-term care worker employed by a community residential service business;

(((~~(d)~~))) (e) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; ((~~or~~

~~(e)~~)) (f) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year; or

(g) A person whose certificate has been expired for less than five years who seeks to restore the certificate to active status. The person does not need to complete continuing education requirements in order for their certificate to be restored to active status. Subsection (1) of this section applies to persons once the certificate has been restored to active status, beginning on the date the certificate is restored to active status.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(5) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(6) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (6) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (6) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1) of this section and provide the legislature with a report.

(7) The department of health shall adopt rules to implement subsection (1) of this section.

(8) The department shall adopt rules to implement subsection (2) of this section.

Sec. 7. RCW 18.88B.041 and 2019 c 363 s 20 are each amended to read as follows:

(1) The following long-term care workers are not required to become a certified home care aide pursuant to this chapter:

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a long-term care worker prior to January 7, 2012, and who completes all of the training requirements in effect as of the date the person was hired.

(ii) Individuals exempted by (a)(i) of this subsection may obtain certification as a home care aide without fulfilling the training requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete a certification examination pursuant to RCW 18.88B.031.

(b) All long-term care workers employed by community residential service businesses.

(c)(i) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent; and

(ii) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(d) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(e) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(f) A long-term care worker providing approved services only for a spouse or registered domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW.

(g) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

(2) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.074 may not be prohibited from enrolling in training pursuant to that section.

(3) The department shall adopt rules to implement this section.

Sec. 8. RCW 74.39A.076 and 2021 c 203 s 8 are each amended to read as follows:

(1) Beginning January 7, 2012, except for long-term care workers exempt from certification under RCW 18.88B.041(1)(a):

(a) A biological, step, or adoptive parent who is the individual provider only for the person's developmentally disabled son or daughter must receive twelve hours of training relevant to the needs of ((~~adults~~)) individuals with developmental disabilities within the first one hundred twenty days after becoming an individual provider.

(b) A spouse or registered domestic partner who is a long-term care worker only for a spouse or domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW, must receive fifteen hours of basic training, and at least six hours of additional focused training based on the care-receiving spouse's or partner's needs, within the first one hundred twenty days after becoming a long-term care worker.

(c) A person working as an individual provider who (i) provides respite care services only for individuals with developmental disabilities receiving services under Title 71A RCW or only for individuals who receive services under this chapter, and (ii) works three hundred hours or less in any calendar year, must complete fourteen hours of training within the first one hundred twenty days after becoming an individual provider. Five of the fourteen hours must be completed before becoming eligible to provide care, including two hours of orientation training regarding the caregiving role and terms of employment and three hours of safety training. The training partnership identified in RCW

74.39A.360 must offer at least twelve of the fourteen hours online, and five of those online hours must be individually selected from elective courses.

(d) Individual providers identified in (d)(i) or (ii) of this subsection must complete thirty-five hours of training within the first one hundred twenty days after becoming an individual provider. Five of the thirty-five hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

(i)(A) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent unless covered by (a) of this subsection; and

(B) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; ((~~and~~))

(ii) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; and

(iii) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

(2) In computing the time periods in this section, the first day is the date of hire.

(3) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(4) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (4) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in subsection (1) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (4) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1) of this section and provide the legislature with a report.

(5) The department shall adopt rules to implement this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 74.39A RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, beginning June 1, 2025, the department shall annually report on the status of:

(1) The long-term care worker supply;

(2) The average wages of long-term care workers compared to entry-level positions in other industries;

(3) Projections of service demands;

(4) Geographic disparities in the supply of long-term care workers; and

(5) Any race, gender, or other worker demographic data available through preexisting administrative data sources.

NEW SECTION. **Sec. 10.** The department of social and health services shall design a pilot project to allow the spouse or domestic partner of a person with complex medical needs who is eligible for long-term services and supports through the department of social and health services to receive payment for providing home care services to the spouse or domestic partner. The design shall consider the appropriate acuity level of the care-receiving spouse or domestic partner, the training needs of the care-providing spouse or domestic partner, payment parameters, fiscal considerations and use of medicaid matching funds, geographic locations for implementing the pilot project, ways to design the project to aid in future statewide implementation, cost estimates for implementing the pilot project, cost estimates for implementing a pilot project expansion, projected number of individuals to be served, a proposed timeline for implementation of the pilot project, and a proposed timeline for implementation of an expanded pilot project. The department of social and health services shall submit the pilot project design to the office of financial management and the appropriate fiscal committees of the legislature by December 31, 2023.

NEW SECTION. **Sec. 11.** The department of social and health services shall study the feasibility and cost of paying the parents of children under 18 years old who are medically complex or have complex support needs related to their behaviors. The department of social and health services must submit a report to the office of financial management and the appropriate fiscal committees of the legislature by December 31, 2023. The report shall address any statutory or regulatory changes needed to authorize the payments, necessary information technology changes for the agency and associated costs, elements needed to prepare a federal waiver or state plan amendments to allow for the use of federal matching funds for the payments to parents, estimates of the number of children expected to be served, the anticipated annual cost to the state both if federal matching funds are available and if they are not available, recommendations on the types of training needed for parents to support their children's care needs, and a proposed timeline for implementation which may be phased, if necessary.

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, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 13, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

CHAPTER 425

[Second Substitute House Bill 1724]

BEHAVIORAL HEALTH WORKFORCE—VARIOUS PROVISIONS

AN ACT Relating to increasing the trained behavioral health workforce; amending RCW 18.83.170, 18.205.140, 18.225.090, 18.225.140, 18.122.100, 18.205.110, 18.225.110, 18.130.050, 18.19.020, 18.19.030, 18.19.090, 18.19.095, 18.19.180, 18.19.210, 71.05.020, 71.05.020, 43.43.842, 18.205.105, 18.130.175, 18.130.040, and 18.130.040; reenacting and amending RCW 71.05.760; adding a new section to chapter 43.70 RCW; adding new sections to chapter 18.130 RCW; adding a new section to chapter 18.225 RCW; adding a new section to chapter 18.19 RCW; creating a new section; providing an effective date; providing a contingent effective date; providing an expiration date; providing a contingent expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.83.170 and 2019 c 351 s 1 are each amended to read as follows:

(1) Upon compliance with administrative procedures, administrative requirements, and fees determined under RCW 43.70.250 and 43.70.280, the board may grant a license, without oral examination, to any applicant who has not previously failed any examination held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that the applicant:

(a) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

(b)(i) Is licensed or certified to practice psychology in another state or country in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

(ii) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or

(iii) Is a member of a professional organization and holds a certificate deemed by the board to meet standards equivalent to this chapter.

(2)(a)(i) The department shall establish a reciprocity program for applicants for licensure as a psychologist in Washington.

(ii) The reciprocity program applies to applicants for a license as a psychologist who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary license to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary license and, within a reasonable time period, transition to a full license. ((~~A person who holds a probationary license may only practice as a psychologist in a licensed or certified service provider, as defined in RCW 71.24.025.~~)) The department may place a reasonable time limit

on a probationary license and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter.

Sec. 2. RCW 18.205.140 and 2019 c 351 s 2 are each amended to read as follows:

(1) An applicant holding a credential in another state may be certified to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

(2)(a)(i) The department shall establish a reciprocity program for applicants for certification as a ((~~chemical dependency~~)) substance use disorder professional in Washington.

(ii) The reciprocity program applies to applicants for certification as a ((~~chemical dependency~~)) substance use disorder professional who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for certified ((~~chemical dependency~~)) substance use disorder professionals as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary certificate to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary certificate and, within a reasonable time period, transition to a full certificate. ((~~A person who holds a probationary certificate may only practice as a chemical dependency professional in a licensed or certified service provider, as defined in RCW 71.24.025.~~)) The department may place a reasonable time limit on a probationary certificate and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for certified ((~~chemical dependency~~)) substance use disorder professionals as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater

than the scope of practice for certified ((~~chemical dependency~~)) substance use disorder professionals as established under this chapter.

Sec. 3. RCW 18.225.090 and 2021 c 21 s 1 are each amended to read as follows:

(1) The secretary shall issue a license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following education and experience requirements for the applicant's practice area.

(a) Licensed social work classifications:

(i) Licensed advanced social worker:

(A) Graduation from a master's ((~~or doctorate~~)) social work educational program accredited by the council on social work education or a social work doctorate program at a university accredited by a recognized accrediting organization, and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of ((~~three thousand two hundred~~)) 3,000 hours with supervision by an approved supervisor who has been licensed for at least two years. Of those supervised hours:

(I) At least ((~~ninety~~)) 90 hours must include direct supervision as specified in this subsection by a licensed independent clinical social worker, a licensed advanced social worker, or an equally qualified licensed mental health professional. Of those hours of directly supervised experience((~~:~~

~~(1) At least fifty hours must include supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be supervised by an equally qualified licensed mental health practitioner; and~~

~~(2) At~~)) at least ((~~forty~~)) 40 hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision; and

(II) ((~~Eight hundred~~)) 800 hours must be in direct client contact; and

(D) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(ii) Licensed independent clinical social worker:

(A) Graduation from a master's ((~~or doctorate~~)) level social work educational program accredited by the council on social work education or a social work doctorate program at a university accredited by a recognized accrediting organization, and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of ((~~four thousand~~)) 3,000 hours of experience, over a period of not less than ((~~three~~)) two years, with supervision by an approved supervisor who has been licensed for at least two years and, as specified in this subsection, may be either a licensed independent clinical social worker who has had at least one year of experience in supervising the clinical social work of others or an equally qualified licensed mental health practitioner. Of those supervised hours:

(I) At least ((~~one thousand~~)) 1,000 hours must be direct client contact; and

(II) Hours of direct supervision must include:

(1) At least ((~~one hundred thirty~~)) 100 hours by a licensed mental health practitioner;

(2) At least ((~~seventy~~)) 70 hours of supervision with a licensed independent clinical social worker meeting the qualifications under this subsection (1)(a)(ii)(C); the ((~~other sixty~~)) remaining hours may be supervised by an equally qualified licensed mental health practitioner; and

(3) At least ((~~sixty~~)) 60 hours must be in one-to-one supervision and ((~~seventy~~)) the remaining hours may be in one-to-one supervision or group supervision; and

(D) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(b) Licensed mental health counselor:

(i) Graduation from a master's or doctoral level educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards;

(ii) Successful completion of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of ((~~thirty-six~~)) 36 months full-time counseling or ((~~three thousand~~)) 3,000 hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner, in an approved setting. The three thousand hours of required experience includes a minimum of ((~~one hundred~~)) 100 hours spent in immediate supervision with the qualified licensed mental health counselor, and includes a minimum of ((~~one thousand two hundred~~)) 1,200 hours of direct counseling with individuals, couples, families, or groups; and

(iv) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(c) Licensed marriage and family therapist:

(i) Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards;

(ii) Successful passage of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of ((~~two calendar years of full-time~~)) 3,000 hours of marriage and family therapy. Of the total supervision, ((~~one hundred~~)) 100 hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other ((~~one hundred~~)) 100 hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

(A) ((~~A minimum of three thousand hours of experience, one thousand~~)) 1,000 hours of ((~~which must be~~)) direct client contact; at least ((~~five hundred~~)) 500 hours must be gained in diagnosing and treating couples and families; plus

(B) At least ((~~two hundred~~)) 200 hours of qualified supervision with a supervisor. At least ((~~one hundred~~)) 100 of the ((~~two hundred~~)) 200 hours must be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

Applicants who have completed a master's program accredited by the commission on accreditation for marriage and family therapy education of the American association for marriage and family therapy may be credited with ((~~five hundred~~)) 500 hours of direct client contact and ((~~one hundred~~)) 100 hours of formal meetings with an approved supervisor; and

(iv) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(2) The department shall establish by rule what constitutes adequate proof of meeting the criteria. Only rules in effect on the date of submission of a completed application of an associate for her or his license shall apply. If the rules change after a completed application is submitted but before a license is issued, the new rules shall not be reason to deny the application.

(3) In addition, applicants shall be subject to the grounds for denial of a license or issuance of a conditional license under chapter 18.130 RCW.

Sec. 4. RCW 18.225.140 and 2019 c 351 s 3 are each amended to read as follows:

(1) An applicant holding a credential in another state may be licensed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the licensing standards in this state.

(2)(a)(i) The department shall establish a reciprocity program for applicants for licensure as an advanced social worker, an independent clinical social worker, a mental health counselor, or a marriage and family therapist in Washington.

(ii) The reciprocity program applies to applicants for a license as an advanced social worker, an independent clinical social worker, a mental health counselor, or a marriage and family therapist who:

(A) Hold or have held within the past ((~~twelve~~)) 12 months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for the corresponding license as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary license to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary license and, within a reasonable time period, transition to a full license. ((~~A person who holds a probationary license may only practice in the relevant profession in a licensed or certified service provider, as defined in RCW 71.24.025.~~)) The department may place a reasonable time limit on a probationary license and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed advanced social workers, independent clinical social workers, mental health counselors, or marriage and family therapists as established under

this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed advanced social workers, independent clinical social workers, mental health counselors, and marriage and family therapists under this chapter.

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

(1) The department, in consultation with the workforce training and education coordinating board and the examining board of psychology, shall examine licensure requirements for the following professions to identify changes to statutes and rules that would remove barriers to entering and remaining in the health care workforce and to streamline and shorten the credentialing process:

(a) Advanced social workers and independent clinical social workers licensed under chapter 18.225 RCW;

(b) Marriage and family therapists licensed under chapter 18.225 RCW;

(c) Mental health counselors licensed under chapter 18.225 RCW;

(d) Substance use disorder professionals certified under chapter 18.205 RCW; and

(e) Psychologists licensed under chapter 18.83 RCW.

(2) The licensure requirements to be examined by the department shall include examinations, continuing education requirements, administrative requirements for license application and renewal, English language proficiency requirements, and supervised experience requirements, including supervisor requirements and costs associated with completing supervised experience requirements.

(3) When conducting the review required in subsection (1) of this section, the department shall at a minimum consider the following:

(a) The availability of peer-reviewed research and other evidence, including requirements in other states, indicating the necessity of specific licensure requirements for ensuring that behavioral health professionals are prepared to practice with reasonable skill and safety;

(b) Changes that would facilitate licensure of qualified, out-of-state and international applicants to promote reciprocity, including the adoption of applicable interstate compacts;

(c) Changes that would promote greater consistency across licensure requirements for professions licensed under chapter 18.225 RCW and allow for applicants' prior professional experience within relevant fields to be counted towards supervised experience requirements established under chapter 18.225 RCW, including the extent to which an applicant may use prior professional experience gained before graduation from a master's or doctoral level educational program to satisfy the applicant's supervised experience requirement;

(d) Technical assistance programs, such as navigators or dedicated customer service lines, to facilitate the completion of licensing applications;

(e) In consultation with the examining board of psychology and a statewide organization representing licensed psychologists, the creation of an associate-level license for psychologists;

(f) Whether agency affiliated counselors should be allowed to practice in federally qualified health centers; and

(g) Any rules that pose excessive administrative requirements for application or renewal or that place a disproportionate burden on applicants from disadvantaged communities.

(4) By November 1, 2023, the department shall provide a progress report and initial findings to the appropriate committees of the legislature on actions and recommendations to remove licensing barriers and improve credentialing time frames.

(5) By November 1, 2024, the department shall provide a final report to the appropriate committees of the legislature on actions and recommendations to remove licensing barriers and improve credentialing time frames.

NEW SECTION. **Sec. 6.** A new section is added to chapter 18.130 RCW to read as follows:

(1) By July 1, 2024, the department and the examining board of psychology shall adopt emergency rules to implement changes to licensing requirements to remove barriers to entering and remaining in the health care workforce and to streamline and shorten the credentialing process. Pursuant to RCW 34.05.350, the legislature finds that the rules adopted under this section are necessary for the preservation of the public health, safety, or general welfare and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. The disciplining authorities shall, therefore, adopt the rules required under this section as emergency rules.

(2) By July 1, 2025, the department and the examining board of psychology shall adopt permanent rules to implement changes to licensing requirements to remove barriers to entering and remaining in the health care workforce and to streamline and shorten the credentialing process.

NEW SECTION. **Sec. 7.** A new section is added to chapter 18.225 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, by October 1, 2023, the department shall develop a program to facilitate placement of associates with clinical supervision services. The program must include a database of license holders with the required qualifications who are willing to serve as approved supervisors and agencies or facilities that offer supervision services through their facilities to associates seeking to satisfy supervised experience requirements under RCW 18.225.090.

(b) The department shall adopt, by rule, minimum qualifications for supervisors or facilities to be included in the database and minimum standards for adequate supervision of associates. The department may not include in the database any person who, or facility that, does not meet the minimum qualifications. The department shall periodically audit the list to remove persons who, or facilities that, no longer meet the minimum qualifications or fail to meet the minimum standards.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a stipend program to defray the out-of-pocket expenses incurred by associates completing supervised experience requirements under RCW 18.225.090.

(a) Out-of-pocket expenses eligible for defrayment under this section include costs incurred in order to obtain supervised experience, such as fees or charges imposed by the individual or entity providing supervision, and any other expenses deemed appropriate by the department.

(b) Associates participating in the stipend program established in this section shall document their out-of-pocket expenses in a manner specified by the department.

(c) When adopting the stipend program, the department shall consider defraying out-of-pocket expenses associated with unpaid internships that are part of an applicant's educational program.

(d) The department shall establish the stipend program no later than July 1, 2024.

(e) The department may adopt any rules necessary to implement this section.

NEW SECTION. **Sec. 8.** A new section is added to chapter 18.130 RCW to read as follows:

(1) Disciplining authorities shall waive education, training, experience, and exam requirements for applicants who have been credentialed in another state or states with substantially equivalent standards for at least two years immediately preceding their application with no interruption in licensure last longer than 90 days.

(2) Disciplining authorities may waive education, training, experience, or exam requirements for applicants who have achieved a national certification for the profession as determined by the disciplining authority in rule.

(3) Disciplining authorities may only issue credentials under this section to applicants who:

(a) Are not subject to denial of a license or issuance of a conditional license under this chapter;

(b) Have not been subject to disciplinary action for unprofessional conduct or impairment in any state, federal, or foreign jurisdiction in the two years preceding their application or during the pendency of their application; and

(c) Are not under investigation or subject to charges in any state, federal, or foreign jurisdiction during the pendency of their application.

Sec. 9. RCW 18.122.100 and 1989 1st ex.s. c 9 s 310 are each amended to read as follows:

(1) The date and location of examinations shall be established by the secretary. Applicants ((~~who have been found by the secretary to meet the other requirements for licensure or certification~~)) shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after

the secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

Sec. 10. RCW 18.205.110 and 1998 c 243 s 11 are each amended to read as follows:

(1) The date and location of examinations shall be established by the secretary. Applicants ((~~who have been found by the secretary to meet the other requirements for certification~~)) shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the certification requirements.

Sec. 11. RCW 18.225.110 and 2001 c 251 s 11 are each amended to read as follows:

(1) The date and location of examinations shall be established by the secretary. Applicants ((~~who have been found by the secretary to meet the other requirements for licensure~~)) shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the licensing requirements.

Sec. 12. RCW 18.130.050 and 2016 c 81 s 13 are each amended to read as follows:

Except as provided in RCW 18.130.062, the disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter;

(3) To hold hearings as provided in this chapter;

(4) To issue subpoenas and administer oaths in connection with any investigation, consideration of an application for license, hearing, or proceeding held under this chapter;

(5) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(6) To compel attendance of witnesses at hearings;

(7) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews and to issue citations and assess fines for failure to produce documents, records, or other items in accordance with RCW 18.130.230;

(8) To take emergency action ordering summary suspension of a license, or restriction or limitation of the license holder's practice pending proceedings by the disciplining authority. Within fourteen days of a request by the affected license holder, the disciplining authority must provide a show cause hearing in accordance with the requirements of RCW 18.130.135. In addition to the authority in this subsection, a disciplining authority shall, except as provided in RCW 9.97.020:

(a) Consistent with RCW 18.130.370, issue a summary suspension of the license or temporary practice permit of a license holder prohibited from practicing a health care profession in another state, federal, or foreign jurisdiction because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040. The summary suspension remains in effect until proceedings by the Washington disciplining authority have been completed;

(b) Consistent with RCW 18.130.400, issue a summary suspension of the license or temporary practice permit if, under RCW 74.39A.051, the license holder is prohibited from employment in the care of vulnerable adults based upon a department of social and health services' final finding of abuse or neglect of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult. The summary suspension remains in effect until proceedings by the disciplining authority have been completed;

(9) To conduct show cause hearings in accordance with RCW 18.130.062 or 18.130.135 to review an action taken by the disciplining authority to suspend a license or restrict or limit a license holder's practice pending proceedings by the disciplining authority;

(10) To use a presiding officer as authorized in RCW 18.130.095(3) or the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. Disciplining authorities identified in RCW 18.130.040(2) shall make the final decision regarding disposition of the license unless the disciplining authority elects to delegate in writing the final decision to the presiding officer. Disciplining authorities identified in RCW 18.130.040(2)(b) may not delegate the final decision regarding disposition of the license or imposition of sanctions to a presiding officer in any case pertaining to standards of practice or where clinical expertise is necessary, including deciding any motion that results in dismissal of any allegation contained in the statement of charges. Presiding officers acting on behalf of the secretary shall enter initial orders. The secretary may, by rule, provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified time period:

(a) The secretary upon his or her own motion determines that the initial order should be reviewed; or

(b) A party to the proceedings files a petition for administrative review of the initial order;

(11) To use individual members of the boards to direct investigations and to authorize the issuance of a citation under subsection (7) of this section. However, the member of the board shall not subsequently participate in the hearing of the case;

(12) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(13) To contract with license holders or other persons or organizations to provide services necessary for the monitoring and supervision of license holders who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(14) To adopt standards of professional conduct or practice;

(15) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter. After January 1, 2009, all sanctions must be issued in accordance with RCW 18.130.390;

(16) To restrict or place conditions on the practice of new licensees in order to protect the public and promote the safety of and confidence in the health care system;

(17) To designate individuals authorized to sign subpoenas and statements of charges;

(18) To establish panels consisting of three or more members of the board to perform any duty or authority within the board's jurisdiction under this chapter;

(19) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a license holder's practice privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the

appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3);

(20) To enter into contracts with persons or entities to review applications for licensure or temporary practice permits, provided that the disciplining authority shall make the final decision as to whether to deny, grant with conditions, or grant a license or temporary practice permit.

Sec. 13. RCW 18.19.020 and 2021 c 170 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means (a) an agency or facility operated, licensed, or certified by the state of Washington; (b) a federally recognized Indian tribe located within the state; or (c) a county.

(2) "Agency affiliated counselor" means a person registered, certified, or licensed under this chapter who is ((~~engaged in counseling and~~)) employed by an agency or is a student intern, as defined by the department((~~, who is supervised by agency staff. "Agency affiliated counselor" includes juvenile probation counselors who are employees of the juvenile court under RCW 13.04.035 and 13.04.040 and juvenile court employees providing functional family therapy, aggression replacement training, or other evidence-based programs approved by the department of children, youth, and families~~)).

(3) "Certified adviser" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

(4) "Certified agency affiliated counselor" means a person certified under this chapter who is engaging in counseling to the extent authorized in section 18 of this act.

(5) "Certified counselor" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

((~~(5)~~)) (6) "Client" means an individual who receives or participates in counseling or group counseling.

((~~(6)~~)) (7) "Counseling" means employing any therapeutic techniques, including but not limited to social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purposes of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

((~~(7)~~)) (8) "Counselor" means an individual, practitioner, therapist, or analyst who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, hypnotherapists.

((~~(8)~~)) (9) "Department" means the department of health.

((~~(9)~~)) (10) "Hypnotherapist" means a person registered under this chapter who is practicing hypnosis as a modality.

(((~~(10)~~))) (11) "Licensed agency affiliated counselor" means a person licensed under this chapter who is engaged in counseling to the extent authorized in section 18 of this act.

(12) "Mental health professional" has the same definition as under RCW 71.05.020.

(13) "Private practice counseling" means the practice of counseling by a certified counselor or certified adviser as specified in RCW 18.19.200.

(((~~(11)~~))) (14) "Psychotherapy" means the practice of counseling using diagnosis of mental disorders according to the fourth edition of the diagnostic and statistical manual of mental disorders, published in 1994, and the development of treatment plans for counseling based on diagnosis of mental disorders in accordance with established practice standards.

(((~~(12)~~))) (15) "Registered agency affiliated counselor" means a person registered under this chapter who is engaged in counseling to the extent authorized in section 18 of this act. This includes juvenile probation counselors who are employees of the juvenile court under RCW 13.04.035 and 13.04.040 and juvenile court employees providing functional family therapy, aggression replacement training, or other evidence-based programs approved by the department of children, youth, and families. A student intern as defined by the department may be a registered agency affiliated counselor.

(16) "Secretary" means the secretary of the department or the secretary's designee.

Sec. 14. RCW 18.19.030 and 2008 c 135 s 2 are each amended to read as follows:

A person may not, as a part of his or her position as an employee of a state agency, practice counseling without being registered, certified, or licensed to practice as an agency affiliated counselor by the department under this chapter unless exempt under RCW 18.19.040.

Sec. 15. RCW 18.19.090 and 2008 c 135 s 8 are each amended to read as follows:

(1) Application for agency affiliated counselor, certified counselor, certified adviser, or hypnotherapist must be made on forms approved by the secretary. The secretary may require information necessary to determine whether applicants meet the qualifications for the credential and whether there are any grounds for denial of the credential, or for issuance of a conditional credential, under this chapter or chapter 18.130 RCW. The application for agency affiliated counselor, certified counselor, or certified adviser must include a description of the applicant's orientation, discipline, theory, or technique. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250, which shall accompany the application.

(2) Applicants for agency affiliated counselor must provide satisfactory documentation that they are employed by an agency ((~~or~~)), have an offer of employment from an agency, or are a student intern as defined by the department.

(3) Applicants for certified agency affiliated counselor must complete the following:

(a) A bachelor's degree in counseling or one of the social sciences from an accredited college or university which includes coursework specified in subsection (5) of this section; and

(b) At least five years of experience in direct treatment of persons with a mental disorder that was gained under the supervision of a mental health professional who is able to independently provide mental health assessments and diagnoses according to the scope of practice of the mental health professional's credential.

(4) Applicants for licensed agency affiliated counselor must complete the following:

(a) An advanced degree in counseling or one of the social sciences from an accredited college or university which includes coursework specified in subsection (5) of this section; and

(b) At least two years of experience in direct treatment of persons with a mental disorder that was gained under the supervision of a mental health professional who is able to independently provide mental health assessments and diagnoses according to the scope of practice of the mental health professional's credential.

(5) Applicants for a certified or licensed agency affiliated counselor credential must have counseling-specific coursework as determined by the department in rule.

(6)(a) Applicants for licensed agency affiliated counselor are not required to meet the coursework requirements in subsection (5) of this section if, prior to the effective date of the rules adopted under subsection (5) of this section, the applicant held a mental health professional designation based on meeting one of the following criteria:

(i) The applicant held an advanced degree in counseling or one of the social sciences from an accredited college or university and had two years of experience in direct treatment of persons with mental illness or emotional disturbance that was gained under the supervision of a mental health professional recognized by the department or attested to by a licensed behavioral health agency;

(ii) The applicant met the waiver criteria of RCW 71.24.260, and the waiver was granted prior to 1986; or

(iii) The applicant had an approved waiver to perform the duties of a mental health professional, that was requested by the behavioral health organization and granted by the mental health division prior to July 1, 2001.

(b) Applicants for certified agency affiliated counselor are not required to meet the coursework requirements in subsection (5) of this section if, prior to the effective date of the rules adopted under subsection (5) of this section, the applicant met the bachelor's degree and experience requirements in subsection (3) of this section.

(c) Applicants for licensed or certified agency affiliated counselors eligible for the legacy provision under this subsection must apply to the department before July 1, 2027. After that date all new applicants must meet the requirements in subsections (3) and (4) of this section. "New applicants" does not include those reinstating a previously issued agency affiliated counselor certification.

(7) At the time of application for initial certification, applicants for certified counselor prior to July 1, 2010, are required to:

(a) Have been registered for no less than five years at the time of application for an initial certification;

(b) Have held a valid, active registration that is in good standing and be in compliance with any disciplinary process and orders at the time of application for an initial certification;

(c) Show evidence of having completed coursework in risk assessment, ethics, appropriate screening and referral, and Washington state law and other subjects identified by the secretary;

(d) Pass an examination in risk assessment, ethics, appropriate screening and referral, and Washington state law, and other subjects as determined by the secretary; and

(e) Have a written consultation agreement with a credential holder who meets the qualifications established by the secretary.

(((~~(4)~~))) (8) Unless eligible for certification under subsection (((~~(3)~~))) (7) of this section, applicants for certified counselor or certified adviser are required to:

(a)(i) Have a bachelor's degree in a counseling-related field, if applying for certified counselor; or

(ii) Have an associate degree in a counseling-related field and a supervised internship, if applying for certified adviser;

(b) Pass an examination in risk assessment, ethics, appropriate screening and referral, and Washington state law, and other subjects as determined by the secretary; and

(c) Have a written supervisory agreement with a supervisor who meets the qualifications established by the secretary.

(((~~(5)~~))) (9) Each applicant shall include payment of the fee determined by the secretary as provided in RCW 43.70.250.

Sec. 16. RCW 18.19.095 and 2019 c 446 s 45 are each amended to read as follows:

The department may not automatically deny an applicant for ((~~registration under this chapter for a position as~~)) an agency affiliated counselor credential who is practicing as a peer counselor in an agency or facility based on a conviction history consisting of convictions for simple assault, assault in the fourth degree, prostitution, theft in the third degree, theft in the second degree, or forgery, the same offenses as they may be renamed, or substantially equivalent offenses committed in other states or jurisdictions if:

(1) At least one year has passed between the applicant's most recent conviction for an offense set forth in this section and the date of application for employment;

(2) The offense was committed as a result of the person's substance use or untreated mental health symptoms; and

(3) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from mental health challenges.

Sec. 17. RCW 18.19.180 and 2001 c 251 s 24 are each amended to read as follows:

An individual ((~~registered~~)) credentialed under this chapter shall not disclose the written acknowledgment of the disclosure statement pursuant to RCW 18.19.060 nor any information acquired from persons consulting the individual in a professional capacity when that information was necessary to enable the individual to render professional services to those persons except:

(1) With the written consent of that person or, in the case of death or disability, the person's personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical condition;

(2) That a person ((~~registered~~)) credentialed under this chapter is not required to treat as confidential a communication that reveals the contemplation or commission of a crime or harmful act;

(3) If the person is a minor, and the information acquired by the person ((~~registered~~)) credentialed under this chapter indicates that the minor was the victim or subject of a crime, the person ((~~registered~~)) credentialed may testify fully upon any examination, trial, or other proceeding in which the commission of the crime is the subject of the inquiry;

(4) If the person waives the privilege by bringing charges against the person ((~~registered~~)) credentialed under this chapter;

(5) In response to a subpoena from a court of law or the secretary. The secretary may subpoena only records related to a complaint or report under chapter 18.130 RCW; or

(6) As required under chapter 26.44 RCW.

NEW SECTION. **Sec. 18.** A new section is added to chapter 18.19 RCW to read as follows:

The scope of practice of registered, certified, and licensed agency affiliated counselors consists exclusively of the following:

(1) Counseling as defined under RCW 18.19.020;

(2) A certified agency affiliated counselor may conduct mental health assessments and make mental health diagnoses which shall be reviewed by a clinical supervisor who is a mental health professional able to independently provide mental health assessments and diagnoses according to the scope of practice of the mental health professional's credential. A certified agency affiliated counselor may not provide clinical supervision; and

(3) A licensed agency affiliated counselor may independently conduct mental health assessments and make mental health diagnoses.

Sec. 19. RCW 18.19.210 and 2019 c 446 s 47 are each amended to read as follows:

(1)(a) An applicant for ((~~registration as~~)) an agency affiliated counselor credential who applies to the department within thirty days of employment by an agency may work as an agency affiliated counselor while the application is processed. The applicant must provide required documentation within reasonable time limits established by the department, and if the applicant does not do so, the applicant must stop working.

(b) The applicant may not provide unsupervised ((~~counseling~~)) services prior to completion of a criminal background check performed by either the employer or the secretary. For purposes of this subsection, "unsupervised"

means the supervisor is not physically present at the location where the counseling occurs.

(2) Agency affiliated counselors shall notify the department if they are either no longer employed by the agency identified on their application or are now employed with another agency, or both. Agency affiliated counselors may not engage in the practice of counseling or other services described under section 18 of this act unless they are currently affiliated with an agency.

Sec. 20. RCW 71.05.020 and 2022 c 210 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to: Hospitals licensed under chapter 70.41 RCW; evaluation and treatment facilities as defined in this section; community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025; licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW; approved substance use disorder treatment programs as defined in this section; secure withdrawal management and stabilization facilities as defined in this section; and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025;

(12) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(13) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(14) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(15) "Department" means the department of health;

(16) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(17) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(18) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(19) "Developmental disability" means that condition defined in RCW 71A.10.020((~~(5)~~)) (6);

(20) "Director" means the director of the authority;

(21) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(22) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(23) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by,

the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(24) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(25) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(26) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(27) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(28) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(29) "In need of assisted outpatient treatment" refers to a person who meets the criteria for assisted outpatient treatment established under RCW 71.05.148;

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(31) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(32) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(33) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(34) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW 71.05.340; and treatment pursuant to an assisted outpatient treatment order under RCW 71.05.148;

(35) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(36) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(37) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(38) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(39) "Mental health professional" means ((~~a~~)) an individual practicing within the mental health professional's statutory scope of practice who is:

(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, ((~~and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter~~)) as defined in this chapter and chapter 71.34 RCW;

(b) A mental health counselor, mental health counselor associate, marriage and family therapist, or marriage and family therapist associate, as defined in chapter 18.225 RCW; or

(c) A certified or licensed agency affiliated counselor, as defined in chapter 18.19 RCW;

(40) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(41) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(42) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(43) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(44) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(45) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(46) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(47) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(48) "Release" means legal termination of the commitment under the provisions of this chapter;

(49) "Resource management services" has the meaning given in chapter 71.24 RCW;

(50) "Secretary" means the secretary of the department of health, or his or her designee;

(51) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating

transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service

provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

Sec. 21. RCW 71.05.020 and 2022 c 210 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to: Hospitals licensed under chapter 70.41 RCW; evaluation and treatment facilities as defined in this section; community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025; licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW; approved substance use disorder treatment programs as defined in this section; secure withdrawal management and stabilization facilities as defined in this section; and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025;

(12) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(13) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(14) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(15) "Department" means the department of health;

(16) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(17) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(18) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(19) "Developmental disability" means that condition defined in RCW 71A.10.020((~~(5)~~)) (6);

(20) "Director" means the director of the authority;

(21) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(22) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(23) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(24) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(25) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(26) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(27) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(28) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(29) "In need of assisted outpatient treatment" refers to a person who meets the criteria for assisted outpatient treatment established under RCW 71.05.148;

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(31) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(32) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(33) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal

representatives of public behavioral health service providers under RCW 71.05.130;

(34) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW 71.05.340; and treatment pursuant to an assisted outpatient treatment order under RCW 71.05.148;

(35) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(36) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(37) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(38) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(39) "Mental health professional" means ((~~a~~)) an individual practicing within the mental health professional's statutory scope of practice who is:

(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, ((~~and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter~~)) as defined in this chapter and chapter 71.34 RCW;

(b) A mental health counselor, mental health counselor associate, marriage and family therapist, or marriage and family therapist associate, as defined in chapter 18.225 RCW; or

(c) A certified or licensed agency affiliated counselor, as defined in chapter 18.19 RCW;

(40) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(41) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(42) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment

program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(43) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(44) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(45) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(46) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(47) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(48) "Release" means legal termination of the commitment under the provisions of this chapter;

(49) "Resource management services" has the meaning given in chapter 71.24 RCW;

(50) "Secretary" means the secretary of the department of health, or his or her designee;

(51) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(52) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(53) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(54) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(55) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(56) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(57) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(58) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(59) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service

provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(60) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

Sec. 22. RCW 71.05.760 and 2019 c 446 s 16 and 2019 c 325 s 3015 are each reenacted and amended to read as follows:

(1)(a) The authority or its designee shall provide training to the designated crisis responders.

(b)(i) To qualify as a designated crisis responder, a person must have received substance use disorder training as determined by the authority and be a:

(A) ((~~Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;~~

~~(B) Person who is licensed by the department as a mental health counselor or mental health counselor associate, or marriage and family therapist or marriage and family therapist associate;~~

~~(C) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;~~

~~(D)~~)) Mental health professional with an advanced degree;

(B) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986; or

(((~~(E)~~)) (C) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional support network and granted by the department of social and health services before July 1, 2001((~~; or~~

~~(F) Person who has been granted an exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary~~)).

(ii) Training must include training specific to the duties of a designated crisis responder, including diagnosis of substance abuse and dependence and assessment of risk associated with substance use.

(2)(a) The authority must ensure that at least one sixteen-bed secure withdrawal management and stabilization facility is operational by April 1, 2018, and that at least two sixteen-bed secure withdrawal management and stabilization facilities are operational by April 1, 2019.

(b) If, at any time during the implementation of secure withdrawal management and stabilization facility capacity, federal funding becomes unavailable for federal match for services provided in secure withdrawal management and stabilization facilities, then the authority must cease any expansion of secure withdrawal management and stabilization facilities until further direction is provided by the legislature.

Sec. 23. RCW 43.43.842 and 2021 c 215 s 150 are each amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies,

facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active vulnerable adult protection order under chapter 7.105 RCW, nor have been: (i) Convicted of a crime against children or other persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult as defined in RCW 43.43.830.

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(f) The department of social and health services reviewed the employee's otherwise disqualifying criminal history through the department of social and health services' background assessment review team process conducted in 2002, and determined that such employee could remain in a position covered by this section; or

(g) The otherwise disqualifying conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure.

The offenses set forth in (a) through (g) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) The rules adopted pursuant to subsection (2) of this section may not allow a licensee to automatically deny an applicant with a conviction for an

offense set forth in subsection (2) of this section for a position as a substance use disorder professional or substance use disorder professional trainee certified under chapter 18.205 RCW if:

(a) At least one year has passed between the applicant's most recent conviction for an offense set forth in subsection (2) of this section and the date of application for employment;

(b) The offense was committed as a result of the applicant's substance use or untreated mental health symptoms; and

(c) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from a mental health disorder.

(4) The rules adopted pursuant to subsection (2) of this section may not allow a licensee to automatically deny an applicant with a conviction for an offense set forth in subsection (2) of this section for a position as an agency affiliated counselor ((~~registered~~)) credentialed under chapter 18.19 RCW practicing as a peer counselor in an agency or facility if:

(a) At least one year has passed between the applicant's most recent conviction for an offense set forth in subsection (2) of this section and the date of application for employment;

(b) The offense was committed as a result of the person's substance use or untreated mental health symptoms; and

(c) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from mental health challenges.

(5) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose.

Sec. 24. RCW 18.205.105 and 2019 c 444 s 25 are each amended to read as follows:

(1) The department shall develop training standards for the creation of a co-occurring disorder specialist enhancement which may be added to the license or registration held by one of the following:

(a) Psychologists licensed under chapter 18.83 RCW;

(b) Independent clinical social workers licensed under chapter 18.225 RCW;

(c) Marriage and family therapists licensed under chapter 18.225 RCW;

(d) Mental health counselors licensed under chapter 18.225 RCW; and

(e) An agency affiliated counselor licensed under chapter 18.19 RCW ((~~with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university who has at least two years of experience, experience gained under the supervision of a mental health~~

~~professional recognized by the department or attested to by the licensed behavioral health agency, in direct treatment of persons with mental illness or emotional disturbance~~)).

(2) To obtain the co-occurring disorder specialist enhancement, the applicant must meet training standards and experience requirements. The training standards must be designed with consideration of the practices of the health professions listed in subsection (1) of this section and consisting of sixty hours of instruction consisting of (a) thirty hours in understanding the disease pattern of addiction and the pharmacology of alcohol and other drugs; and (b) thirty hours in understanding addiction placement, continuing care, and discharge criteria, including the American society of addiction medicine criteria; treatment planning specific to substance abuse; relapse prevention; and confidentiality issues specific to substance use disorder treatment.

(3) In developing the training standards, the department shall consult with the examining board of psychology established in chapter 18.83 RCW, the Washington state mental health counselors, marriage and family therapists, and social workers advisory committee established in chapter 18.225 RCW, the substance use disorder certification advisory committee established in chapter 18.205 RCW, and educational institutions in Washington state that train psychologists, marriage and family therapists, mental health counselors, independent clinical social workers, and substance use disorder professionals.

(4) The department shall approve educational programs that meet the training standards, and must not limit its approval to university-based courses.

(5) The secretary shall issue a co-occurring disorder specialist enhancement to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Completion of the training standards;

(b) Successful completion of an approved examination based on core competencies of substance use disorder counseling;

(c) Successful completion of an experience requirement of:

(i) Eighty hours of supervised experience for an applicant listed under subsection (1) of this section with fewer than five years of experience; or

(ii) Forty hours of supervised experience for an applicant listed under subsection (1) of this section with five or more years of experience; and

(d) Payment of any fees that may be established by the department.

(6) An applicant for the co-occurring disorder specialist enhancement may receive supervised experience from any person who meets or exceeds the requirements of a certified substance use disorder professional in the state of Washington and who would be eligible to take the examination required for substance use disorder professional certification.

(7) A person who has obtained a co-occurring disorder specialist enhancement may provide substance use disorder counseling services which are equal in scope with those provided by substance use disorder professionals under this chapter, subject to the following limitations:

(a) A co-occurring disorder specialist may only provide substance use disorder counseling services if the co-occurring disorder specialist is employed by:

(i) An agency that provides counseling services;

(ii) A federally qualified health center; or

(iii) A hospital;

(b) Following an initial intake or assessment, a co-occurring disorder specialist may provide substance use disorder treatment only to clients diagnosed with a substance use disorder and a mental health disorder;

(c) Prior to providing substance use disorder treatment to a client assessed to be in need of 2.1 or higher level of care according to American society of addiction medicine criteria, a co-occurring disorder specialist must make a reasonable effort to refer and connect the client to the appropriate care setting, as indicated by the client's American society of addiction medicine level of care; and

(d) A co-occurring disorder specialist must comply with rules promulgated by the department under subsection (11) of this section.

(8) The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.

(9) Applicants are subject to the grounds for denial of a certificate or issuance of a conditional certificate under chapter 18.130 RCW.

(10) The department may adopt a fee to defray the cost of regulatory activities related to the issuance of co-occurring disorder specialist enhancements and any related disciplinary activities.

(11) The department shall adopt rules regarding the role of co-occurring disorder specialists across the American society of addiction medicine continuum of care.

(12) Any increase in fees necessary to cover the cost of regulating co-occurring disorder ((~~professionals [specialists]~~)) specialists who receive an enhancement under this section must be borne by persons licensed as psychologists under chapter 18.83 RCW, independent clinical social workers under chapter 18.225 RCW, marriage and family therapists under chapter 18.225 RCW, or mental health counselors under chapter 18.225 RCW. The cost of regulating co-occurring disorder specialists who receive an enhancement under this section may not be borne by substance use disorder professionals or substance use disorder professional trainees certified under this chapter and may not be included in the calculation of fees for substance use disorder professionals or substance use disorder professional trainees certified under this chapter.

Sec. 25. RCW 18.130.175 and 2022 c 43 s 10 are each amended to read as follows:

(1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of an applicable impairing or potentially impairing health condition, the disciplining authority may refer the license holder to a physician health program or a voluntary substance use disorder monitoring program approved by the disciplining authority.

The cost of evaluation and treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Evaluation and treatment shall be provided by providers approved by the entity or the commission. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the physician health program or voluntary substance use disorder monitoring program shall be done only with the consent of the license holder. Referral to the physician health program or voluntary

substance use disorder monitoring program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160 which includes suspension of the license unless or until the disciplining authority, in consultation with the director of the applicable program, determines the license holder is able to practice safely. The secretary shall adopt uniform rules for the evaluation by the disciplining authority of return to substance use or program violation on the part of a license holder in the program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplining authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving the physician health program or the voluntary substance use disorder monitoring program that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their impairing or potentially impairing health condition, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The physician health program or voluntary substance use disorder program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) Program records including, but not limited to, case notes, progress notes, laboratory reports, evaluation and treatment records, electronic and written correspondence within the program, and between the program and the participant or other involved entities including, but not limited to, employers, credentialing bodies, referents, or other collateral sources, relating to license holders referred to or voluntarily participating in approved programs are confidential and exempt from disclosure under chapter 42.56 RCW and shall not be subject to discovery by subpoena or admissible as evidence except:

(a) To defend any civil action by a license holder regarding the restriction or revocation of that individual's clinical or staff privileges, or termination of a license holder's employment. In such an action, the program will, upon subpoena issued by either party to the action, and upon the requesting party seeking a protective order for the requested disclosure, provide to both parties of the action written disclosure that includes the following information:

(i) Verification of a health care professional's participation in the physician health program or voluntary substance use disorder monitoring program as it relates to aspects of program involvement at issue in the civil action;

(ii) The dates of participation;

(iii) Whether or not the program identified an impairing or potentially impairing health condition;

(iv) Whether the health care professional was compliant with the requirements of the physician health program or voluntary substance use disorder monitoring program; and

(v) Whether the health care professional successfully completed the physician health program or voluntary substance use disorder monitoring program; and

(b) Records provided to the disciplining authority for cause as described in subsection (3) of this section. Program records relating to license holders mandated to the program, through order or by stipulation, by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, must be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section are exempt from chapter 42.56 RCW and are not subject to discovery by subpoena except by the license holder.

(5) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(6) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section, and applies to both license holders and students and trainees when students and trainees of the applicable professions are served by the program. The persons entitled to immunity shall include:

(i) An approved physician health program or voluntary substance use disorder monitoring program;

(ii) The professional association affiliated with the program;

(iii) Members, employees, or agents of the program or associations;

(iv) Persons reporting a license holder as being possibly impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the program participant's treatment or rehabilitation.

(b) The courts are strongly encouraged to impose sanctions on program participants and their attorneys whose allegations under this subsection are not made in good faith and are without either reasonable objective, substantive grounds, or both.

(c) The immunity provided in this section is in addition to any other immunity provided by law.

(7) In the case of a person who is applying to be a substance use disorder professional or substance use disorder professional trainee certified under chapter 18.205 RCW, if the person is:

(a) Less than one year in recovery from a substance use disorder, the duration of time that the person may be required to participate in an approved substance use disorder monitoring program may not exceed the amount of time necessary for the person to achieve one year in recovery; or

(b) At least one year in recovery from a substance use disorder, the person may not be required to participate in the approved substance use disorder monitoring program.

(8) In the case of a person who is applying to be an agency affiliated counselor ((~~registered~~)) credentialed under chapter 18.19 RCW and practices or intends to practice as a peer counselor in an agency, as defined in RCW 18.19.020, if the person is:

(a) Less than one year in recovery from a substance use disorder, the duration of time that the person may be required to participate in the approved substance use disorder monitoring program may not exceed the amount of time necessary for the person to achieve one year in recovery; or

(b) At least one year in recovery from a substance use disorder, the person may not be required to participate in the approved substance use disorder monitoring program.

Sec. 26. RCW 18.130.040 and 2021 c 179 s 7 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists ((~~and~~)) registered, agency affiliated counselors registered, certified, or licensed, and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 27. RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) Acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists ((~~and~~)) registered, agency affiliated counselors registered, certified, or licensed, and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW;

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Birth doulas certified under chapter 18.47 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapter 18.57 RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW, governing licenses and certifications issued under that chapter; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. **Sec. 28.** Section 20 of this act expires when section 21 of this act takes effect.

NEW SECTION. **Sec. 29.** Section 26 of this act expires October 1, 2023.

NEW SECTION. **Sec. 30.** Section 21 of this act takes effect when section 2, chapter 210, Laws of 2022 takes effect.

NEW SECTION. **Sec. 31.** Section 27 of this act takes effect October 1, 2023.

NEW SECTION. **Sec. 32.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 33.** Sections 1 through 7, 13 through 20, and 22 through 26 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the House April 18, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 11, 2023.
Filed in Office of Secretary of State May 11, 2023.

AUTHENTICATION

I, Kathleen Buchli, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2023 session (68th Legislature), chapters 230 through 425, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 5th day of June, 2023.

Kathleen Buchli
Code Reviser