

2019

SESSION LAWS

OF THE

STATE OF WASHINGTON

2019 REGULAR SESSION
SIXTY-SIXTH LEGISLATURE
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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 2019 regular session is July 28, 2019.
- (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 2019 laws may be found at the back of the final volume.

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CHAPTER 203

[Engrossed Substitute House Bill 1094]

MEDICAL MARIJUANA--PATIENT RENEWAL--SEVERE HARDSHIP

AN ACT Relating to establishing compassionate care renewals for medical marijuana qualifying patients; amending RCW 69.51A.030 and 69.51A.230; and adding a new section to chapter 69.51A RCW.

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

Sec. 1. RCW 69.51A.030 and 2015 c 70 s 18 are each amended to read as follows:

(1) The following acts do not constitute crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, notwithstanding any other provision of law as long as the health care professional complies with subsection (2) of this section:

(a) Advising a patient about the risks and benefits of medical use of marijuana or that the patient may benefit from the medical use of marijuana; or

(b) Providing a patient or designated provider meeting the criteria established under RCW 69.51A.010 with an authorization, based upon the health care professional's assessment of the patient's medical history and current medical condition, if the health care professional has complied with this chapter and he or she determines within a professional standard of care or in the individual health care professional's medical judgment the qualifying patient may benefit from the medical use of marijuana.

(2)(a) A health care professional may provide a qualifying patient or that patient's designated provider with an authorization for the medical use of marijuana in accordance with this section.

(b) In order to authorize for the medical use of marijuana under (a) of this subsection, the health care professional must:

(i) Have a documented relationship with the patient, as a principal care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition;

(ii) Complete an in-person physical examination of the patient or a remote physical examination of the patient if one is determined to be appropriate under (c)(iii) of this subsection;

(iii) Document the terminal or debilitating medical condition of the patient in the patient's medical record and that the patient may benefit from treatment of this condition or its symptoms with medical use of marijuana;

(iv) Inform the patient of other options for treating the terminal or debilitating medical condition and documenting in the patient's medical record that the patient has received this information;

(v) Document in the patient's medical record other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of marijuana; and

(vi) Complete an authorization on forms developed by the department, in accordance with subsection (3) of this section.

(c)(i) For a qualifying patient eighteen years of age or older, an authorization expires one year after its issuance. For a qualifying patient less than eighteen years of age, an authorization expires six months after its issuance.

(ii) An authorization may be renewed upon completion of an in-person physical examination ~~(and)~~ or a remote physical examination of the patient if one is determined to be appropriate under (c)(iii) of this subsection and, in compliance with the other requirements of (b) of this subsection.

(iii) Following an in-person physical examination to authorize the use of marijuana for medical purposes, the health care professional may determine and note in the patient's medical record that subsequent physical examinations for the purposes of renewing an authorization may occur through the use of telemedicine technology if the health care professional determines that requiring the qualifying patient to attend a physical examination in person to renew an authorization would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition.

(iv) When renewing a qualifying patient's authorization for the medical use of marijuana on or after the effective date of this section, the health care professional may indicate that the qualifying patient qualifies for a compassionate care renewal of his or her registration in the medical marijuana authorization database and recognition card if the health care professional determines that requiring the qualifying patient to renew a registration in person would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition. A compassionate care renewal of a qualifying patient's registration and recognition card allows the qualifying patient to receive renewals without the need to be physically present at a retailer and without the requirement to have a photograph taken.

(d) A health care professional shall not:

(i) Accept, solicit, or offer any form of pecuniary remuneration from or to a marijuana retailer, marijuana processor, or marijuana producer;

(ii) Offer a discount or any other thing of value to a qualifying patient who is a customer of, or agrees to be a customer of, a particular marijuana retailer;

(iii) Examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where marijuana is produced, processed, or sold;

(iv) Have a business or practice which consists primarily of authorizing the medical use of marijuana or authorize the medical use of marijuana at any location other than his or her practice's permanent physical location;

(v) Except as provided in RCW 69.51A.280, sell, or provide at no charge, marijuana concentrates, marijuana-infused products, or useable marijuana to a qualifying patient or designated provider; or

(vi) Hold an economic interest in an enterprise that produces, processes, or sells marijuana if the health care professional authorizes the medical use of marijuana.

(3) The department shall develop the form for the health care professional to use as an authorization for qualifying patients and designated providers. The form shall include the qualifying patient's or designated provider's name, address, and date of birth; the health care professional's name, address, and license number; the amount of marijuana recommended for the qualifying patient; a telephone number where the authorization can be verified during

normal business hours; the dates of issuance and expiration; and a statement that an authorization does not provide protection from arrest unless the qualifying patient or designated provider is also entered in the medical marijuana authorization database and holds a recognition card.

~~(4) ((Until July 1, 2016, a health care professional who, within a single calendar month, authorizes the medical use of marijuana to more than thirty patients must report the number of authorizations issued.~~

~~(5))~~ The appropriate health professions disciplining authority may inspect or request patient records to confirm compliance with this section. The health care professional must provide access to or produce documents, records, or other items that are within his or her possession or control within twenty-one calendar days of service of a request by the health professions disciplining authority. If the twenty-one calendar day limit results in a hardship upon the health care professional, he or she may request, for good cause, an extension not to exceed thirty additional calendar days. Failure to produce the documents, records, or other items shall result in citations and fines issued consistent with RCW 18.130.230. Failure to otherwise comply with the requirements of this section shall be considered unprofessional conduct and subject to sanctions under chapter 18.130 RCW.

~~((6))~~ (5) After a health care professional authorizes a qualifying patient for the medical use of marijuana, he or she may discuss with the qualifying patient how to use marijuana and the types of products the qualifying patient should seek from a retail outlet.

Sec. 2. RCW 69.51A.230 and 2015 c 70 s 21 are each amended to read as follows:

(1) The department must contract with an entity to create, administer, and maintain a secure and confidential medical marijuana authorization database that, beginning July 1, 2016, allows:

(a) A marijuana retailer with a medical marijuana endorsement to add a qualifying patient or designated provider and include the amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(b) Persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care for their patients;

(c) A qualifying patient or designated provider to request and receive his or her own health care information or information on any person or entity that has queried their name or information;

(d) Appropriate local, state, tribal, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation of suspected marijuana-related activity that may be illegal under Washington state law to confirm the validity of the recognition card of a qualifying patient or designated provider;

(e) A marijuana retailer holding a medical marijuana endorsement to confirm the validity of the recognition card of a qualifying patient or designated provider;

(f) The department of revenue to verify tax exemptions under chapters 82.08 and 82.12 RCW;

(g) The department and the health care professional's disciplining authorities to monitor authorizations and ensure compliance with this chapter and chapter 18.130 RCW by their licensees; and

(h) Authorizations to expire six months or one year after entry into the medical marijuana authorization database, depending on whether the authorization is for a minor or an adult.

(2) A qualifying patient and his or her designated provider, if any, may be placed in the medical marijuana authorization database at a marijuana retailer with a medical marijuana endorsement. After a qualifying patient or designated provider is placed in the medical marijuana authorization database, he or she must be provided with a recognition card that contains identifiers required in subsection (3) of this section.

(3) The recognition card requirements must be developed by the department in rule and include:

(a) A randomly generated and unique identifying number;

(b) For designated providers, the unique identifying number of the qualifying patient whom the provider is assisting;

(c) A photograph of the qualifying patient's or designated provider's face taken by an employee of the marijuana retailer with a medical marijuana endorsement at the same time that the qualifying patient or designated provider is being placed in the medical marijuana authorization database in accordance with rules adopted by the department;

(d) The amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(e) The effective date and expiration date of the recognition card;

(f) The name of the health care professional who authorized the qualifying patient or designated provider; and

(g) For the recognition card, additional security features as necessary to ensure its validity.

(4)(a) For qualifying patients who are eighteen years of age or older and their designated providers, recognition cards are valid for one year from the date the health care professional issued the authorization. For qualifying patients who are under the age of eighteen and their designated providers, recognition cards are valid for six months from the date the health care professional issued the authorization. Qualifying patients may not be reentered into the medical marijuana authorization database until they have been reexamined by a health care professional and determined to meet the definition of qualifying patient. After reexamination, a marijuana retailer with a medical marijuana endorsement must reenter the qualifying patient or designated provider into the medical marijuana authorization database and a new recognition card will then be issued in accordance with department rules.

(b) Beginning on the effective date of this section, a qualifying patient's registration in the medical marijuana authorization database and his or her recognition card may be renewed by a qualifying patient's designated provider without the physical presence of the qualifying patient at the retailer if the authorization from the health care professional indicates that the qualifying patient qualifies for a compassionate care renewal, as provided in RCW 69.51A.030. A qualifying patient receiving renewals under the compassionate

care renewal provisions is exempt from the photograph requirements under subsection (3)(c) of this section.

(5) If a recognition card is lost or stolen, a marijuana retailer with a medical marijuana endorsement, in conjunction with the database administrator, may issue a new card that will be valid for six months to one year if the patient is reexamined by a health care professional and determined to meet the definition of qualifying patient and depending on whether the patient is under the age of eighteen or eighteen years of age or older as provided in subsection (4) of this section. If a reexamination is not performed, the expiration date of the replacement recognition card must be the same as the lost or stolen recognition card.

(6) The database administrator must remove qualifying patients and designated providers from the medical marijuana authorization database upon expiration of the recognition card. Qualifying patients and designated providers may request to remove themselves from the medical marijuana authorization database before expiration of a recognition card and health care professionals may request to remove qualifying patients and designated providers from the medical marijuana authorization database if the patient or provider no longer qualifies for the medical use of marijuana. The database administrator must retain database records for at least five calendar years to permit the state liquor and cannabis board and the department of revenue to verify eligibility for tax exemptions.

(7) During development of the medical marijuana authorization database, the database administrator must consult with the department, stakeholders, and persons with relevant expertise to include, but not be limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab or a certified cybersecurity firm, vendor, or service.

(8) The medical marijuana authorization database must meet the following requirements:

(a) Any personally identifiable information included in the database must be nonreversible, pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the database must not be susceptible to linkage by use of data external to the database;

(c) The database must incorporate current best differential privacy practices, allowing for maximum accuracy of database queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The database must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(9)(a) Personally identifiable information of qualifying patients and designated providers included in the medical marijuana authorization database is confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.

(b) Information contained in the medical marijuana authorization database may be released in aggregate form, with all personally (identifying

~~[[identifiable]]~~) identifiable information redacted, for the purpose of statistical analysis and oversight of agency performance and actions.

(c) Information contained in the medical marijuana authorization database shall not be shared with the federal government or its agents unless the particular ~~[[qualifying]]~~) qualifying patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW.

(10)~~(((a)))~~) The department must charge a one dollar fee for each initial and renewal recognition card issued by a marijuana retailer with a medical marijuana endorsement. The marijuana retailer with a medical marijuana endorsement shall collect the fee from the qualifying patient or designated provider at the time that he or she is entered into the database and issued a recognition card. The department shall establish a schedule for marijuana retailers with a medical marijuana endorsement to remit the fees collected. Fees collected under this subsection shall be deposited into the health professions account created under RCW 43.70.320.

~~(((b) By November 1, 2016, the department shall report to the governor and the fiscal committees of both the house of representatives and the senate regarding the cost of implementation and administration of the medical marijuana authorization database. The report must specify amounts from the health professions account used to finance the establishment and administration of the medical marijuana authorization database as well as estimates of the continuing costs associated with operating the medical marijuana [authorization] database. The report must also provide initial enrollment figures in the medical marijuana authorization database and estimates of expected future enrollment.))~~)

(11) If the database administrator fails to comply with this section, the department may cancel any contracts with the database administrator and contract with another database administrator to continue administration of the database. A database administrator who fails to comply with this section is subject to a fine of up to five thousand dollars in addition to any penalties established in the contract. Fines collected under this section must be deposited into the health professions account created under RCW 43.70.320.

(12) The department may adopt rules to implement this section.

NEW SECTION. Sec. 3. A new section is added to chapter 69.51A RCW to read as follows:

The compassionate care renewals permitted in RCW 69.51A.030 and 69.51A.230 take effect November 1, 2019. The department may adopt rules to implement these renewals and to streamline administrative functions. However, the policy established in these sections may not be delayed until the rules are adopted.

Passed by the House April 18, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 204

[Substitute House Bill 1095]

MEDICAL MARIJUANA--ADMINISTRATION TO STUDENTS

AN ACT Relating to the administration of marijuana to students for medical purposes; amending RCW 69.51A.060; adding a new section to chapter 28A.210 RCW; adding a new section to chapter 69.51A RCW; and adding a new section to chapter 28A.300 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.210 RCW to read as follows:

(1) A school district must permit a student who meets the requirements of RCW 69.51A.220 to consume marijuana-infused products for medical purposes on school grounds, aboard a school bus, or while attending a school-sponsored event in accordance with the school district's policy adopted under this section.

(2) Upon the request of a parent or guardian of a student who meets the requirements of RCW 69.51A.220, the board of directors of a school district shall adopt a policy to authorize parents or guardians to administer marijuana-infused products to a student for medical purposes while the student is on school grounds, aboard a school bus, or attending a school-sponsored event. The policy must, at a minimum:

(a) Require that the student be authorized to use marijuana-infused products for medical purposes pursuant to RCW 69.51A.220 and that the parent or guardian acts as the designated provider for the student and assists the student with the consumption of the marijuana while on school grounds, aboard a school bus, or attending a school-sponsored event;

(b) Establish protocols for verifying the student is authorized to use marijuana for medical purposes and the parent or guardian is acting as the designated provider for the student pursuant to RCW 69.51A.220. The school may consider a student's and parent's or guardian's valid recognition cards to be proof of compliance with RCW 69.51A.220;

(c) Expressly authorize parents or guardians of students who have been authorized to use marijuana for medical purposes to administer marijuana-infused products to the student while the student is on school grounds at a location identified pursuant to (d) of this subsection (2), aboard a school bus, or attending a school-sponsored event;

(d) Identify locations on school grounds where marijuana-infused products may be administered; and

(e) Prohibit the administration of medical marijuana to a student by smoking or other methods involving inhalation while the student is on school grounds, aboard a school bus, or attending a school-sponsored event.

(3) School district officials, employees, volunteers, students, and parents and guardians acting in accordance with the school district policy adopted under subsection (2) of this section may not be arrested, prosecuted, or subject to other criminal sanctions, or civil or professional consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver marijuana under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or possession with intent to manufacture or deliver marijuana under state law.

(4) For the purposes of this section, "marijuana-infused products" has the meaning provided in RCW 69.50.101.

NEW SECTION. Sec. 2. A new section is added to chapter 69.51A RCW to read as follows:

A school district must permit a student who meets the requirements of RCW 69.51A.220 to consume marijuana-infused products on school grounds, aboard a school bus, or while attending a school-sponsored event. The use must be in accordance with school policy relating to medical marijuana use on school grounds, aboard a school bus, or while attending a school-sponsored event, as adopted under section 1 of this act.

Sec. 3. RCW 69.51A.060 and 2015 c 70 s 31 are each amended to read as follows:

(1) It shall be a class 3 civil infraction to use or display medical marijuana 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 marijuana. Such entities may enact coverage or noncoverage criteria or related policies for payment or nonpayment of medical marijuana in their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment, ~~((in any school bus or on any school grounds;))~~ in any youth center, in any correctional facility, or smoking marijuana in any public place or hotel or motel. ~~((However, a school may permit a minor who meets the requirements of RCW 69.51A.220 to consume marijuana on school grounds. Such use must be in accordance with school policy relating to medication use on school grounds.))~~

(5) Nothing in this chapter authorizes the possession or use of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products on federal property.

(6) Nothing in this chapter authorizes the use of medical marijuana 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 marijuana 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 marijuana 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. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The superintendent of public instruction and school districts must suspend implementation of sections 1 and 2 of this act if:

(a) The federal government issues a communication after the effective date of this section that suggests that federal education funding will be withheld if the state continues to implement sections 1 and 2 of this act;

(b) The superintendent of public instruction requests a formal opinion by the state attorney general on the federal communication; and

(c) The state attorney general provides a formal opinion that the federal communication has reasonably demonstrated that continued implementation of sections 1 and 2 of this act reasonably jeopardizes future federal funding.

(2) The office of the superintendent of public instruction must provide the state attorney general opinion to the education and fiscal committees of the legislature within thirty days of the issuance of the opinion.

Passed by the House April 18, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 205

[Engrossed House Bill 1126]

DISTRIBUTED ENERGY--ELECTRIC UTILITIES--PLANNING

AN ACT Relating to enabling electric utilities to prepare for the distributed energy future; and adding a new section to chapter 19.280 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 19.280 RCW to read as follows:

(1) The legislature finds that the proliferation of distributed energy resources across the distribution system is rapidly transforming the relationships between electric utilities and their retail electric customers. The legislature finds that distributed energy resources planning processes will vary from one utility to another based on the unique characteristics of each system. However, distributed energy resources planning processes may allow electric utilities to better anticipate both the positive and negative impacts of this transformation by: Illuminating the interdependencies among customer-sited energy and capacity resources; identifying and quantifying customer values that are not represented in volumetric electricity rates; reducing, deferring, or eliminating unnecessary and costly transmission and distribution capital expenditures; maximizing system benefits for all retail electric customers; and identifying opportunities for improving access to transformative technologies for low-income and other underrepresented customer populations.

(2) Therefore, it is the policy of the state of Washington that any distributed energy resources planning process engaged in by an electric utility in the state should accomplish the following:

(a) Identify the data gaps that impede a robust planning process as well as any upgrades, such as but not limited to advanced metering and grid monitoring equipment, enhanced planning simulation tools, and potential cooperative efforts with other utilities in developing tools needed to obtain data that would allow the electric utility to quantify the locational and temporal value of resources on the distribution system;

(b) Propose monitoring, control, and metering upgrades that are supported by a business case identifying how those upgrades will be leveraged to provide net benefits for customers;

(c) Identify potential programs that are cost-effective and tariffs to fairly compensate customers for the actual monetizable value of their distributed energy resources, including benefits and any related implementation and integration costs of distributed energy resources, and enable their optimal usage while also ensuring reliability of electricity service, such as programs benefiting low-income customers;

(d) Forecast, using probabilistic models if available, the growth of distributed energy resources on the utility's distribution system;

(e) Provide, at a minimum, a ten-year plan for distribution system investments and an analysis of nonwires alternatives for major transmission and distribution investments as deemed necessary by the governing body, in the case of a consumer-owned utility, or the commission, in the case of an investor-owned utility. This plan should include a process whereby near-term assumptions, any pilots or procurements initiated in accordance with subsection (3) of this section or data gathered via current market research into a similar type of utility or other cost/benefit studies, regularly inform and adjust the long-term projections of the plan. The goal of the plan should be to provide the most affordable investments for all customers and avoid reactive expenditures to accommodate unanticipated growth in distributed energy resources. An analysis that fairly considers wire-based and nonwires alternatives on equal terms is foundational to achieving this goal. The electric utility should be financially indifferent to the technology that is used to meet a particular resource need. The distribution system investment planning process should utilize a transparent approach that involves opportunities for stakeholder input and feedback. The electric utility must identify in the plan the sources of information it relied upon, including peer-reviewed science. Any cost-benefit analysis conducted as part of the plan must also include at least one pessimistic scenario constructed from reasonable assumptions and modeling choices that would produce comparatively high probable costs and comparatively low probable benefits, and at least one optimistic scenario constructed from reasonable assumptions and modeling choices that would produce comparatively low probable costs and comparatively high probable benefits;

(f) Include the distributed energy resources identified in the plan in the electric utility's integrated resource plan developed under this chapter. Distribution system plans should be used as inputs to the integrated resource planning process. Distributed energy resources may be used to meet system needs when they are not needed to meet a local distribution need. Including select distributed energy resources in the integrated resource planning process allows those resources to displace or delay system resources in the integrated resource plan;

(g) Include a high level discussion of how the electric utility is adapting cybersecurity and data privacy practices to the changing distribution system and the internet of things, including an assessment of the costs associated with ensuring customer privacy; and

(h) Include a discussion of lessons learned from the planning cycle and identify process and data improvements planned for the next cycle.

(3) To ensure that procurement decisions are based on current cost and performance data for distributed energy resources, a utility may procure cost-effective distributed energy resource needs as identified in any distributed energy resources plan through a process that is price-based and technology neutral. Electric utilities should consider using competitive procurements tailored to meet a specific need, which may increase the utility's ability to identify the lowest cost and most efficient means of meeting distribution system needs. If the projected cost of a procurement is more than the calculated system net benefit of the identified distributed energy resources, the governing body, in the case of a consumer-owned utility, or the commission, in the case of an investor-owned utility, may approve a pilot process by which the electric utility will gain a better understanding of the costs and benefits of a distributed energy resource or resources.

(4) By January 1, 2023, the legislature shall conduct an initial review of the state's policy pertaining to distributed energy resources planning under this chapter. By January 1, 2026, and every four years thereafter, the legislature shall conduct a full review of the policy and determine how many electric utilities in the state have engaged in or are engaging in a distributed energy resources planning process, whether the process has met the eight goals specified under subsection (2) of this section, and whether these goals need to be expanded or amended.

Passed by the House March 11, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 206

[House Bill 1146]

CHRISTMAS TREE GROWER LICENSURE PROGRAM--EXTENSION

AN ACT Relating to extending the program establishing Christmas tree grower licensure; and amending 2013 c 72 s 1 (uncodified).

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

Sec. 1. 2013 c 72 s 1 (uncodified) is amended to read as follows:

This act expires July 1, (~~2020~~) 2030.

Passed by the House March 1, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 207

[House Bill 1147]

BROADCASTER ACCESS TO EMERGENCY AREAS

AN ACT Relating to access of broadcasters to a geographic area subject to the declaration of a national, state, or local emergency; amending RCW 38.52.010 and 38.52.110; and adding a new section to chapter 38.52 RCW.

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

Sec. 1. RCW 38.52.010 and 2017 c 312 s 3 are each amended to read as follows:

As used in this chapter:

(1) "Broadcaster" means a person or entity that holds a license issued by the federal communications commission under 47 C.F.R. Part 73, 74, 76, or 78.

(2) "Communication plan," as used in RCW 38.52.070, means a section in a local comprehensive emergency management plan that addresses emergency notification of life safety information.

~~((2))~~ (3) "Continuity of operations planning" means the internal effort of an organization to assure that the capability exists to continue essential functions and services in response to a comprehensive array of potential emergencies or disasters.

~~((3))~~ (4) "Department" means the state military department.

~~((4))~~ (5) "Director" means the adjutant general.

~~((5))~~ (6) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

~~((6))~~ (7)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

~~((7))~~ (8) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection ~~((6))~~ (7)(b) of this section.

~~((8))~~ (9) "Emergency worker" means any person who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

~~((9))~~ (10) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and

towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

~~((40))~~ (11) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, firefighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

~~((41))~~ (12) "First informer broadcaster" means an individual who:

(a) Is employed by, or acting pursuant to a contract under the direction of, a broadcaster; and

(b)(i) Maintains, including repairing or resupplying, transmitters, generators, or other essential equipment at a broadcast station or facility; or (ii) provides technical support services to broadcasters needed during a period of proclaimed emergency.

(13) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and strategies during multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

~~((42))~~ (14) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

~~((43))~~ (15) "Life safety information" means information provided to people during a response to a life-threatening emergency or disaster informing them of actions they can take to preserve their safety. Such information may include, but is not limited to, information regarding evacuation, sheltering, sheltering-in-place, facility lockdown, and where to obtain food and water.

~~((44))~~ (16) "Local director" means the director of a local organization of emergency management or emergency services.

~~((45))~~ (17) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

~~((46))~~ (18) "Political subdivision" means any county, city or town.

~~((47))~~ (19) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

~~((48))~~ (20) "Radio communications service company" has the meaning ascribed to it in RCW 82.14B.020.

~~((49))~~ (21) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural,

technological, or human caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

Sec. 2. RCW 38.52.110 and 1984 c 38 s 11 are each amended to read as follows:

(1) In carrying out the provisions of this chapter, the governor and the executive heads of the political subdivisions of the state are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state, political subdivisions, and all other municipal corporations thereof including but not limited to districts and quasi municipal corporations organized under the laws of the state of Washington to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the governor and to the emergency management organizations of the state upon request notwithstanding any other provision of law.

(2) The governor, the chief executive of counties, cities and towns and the emergency management directors of local political subdivisions appointed in accordance with this chapter, in the event of a disaster, after proclamation by the governor of the existence of such disaster, shall have the power to command the service and equipment of as many citizens as considered necessary in the light of the disaster proclaimed: PROVIDED, That citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by this chapter and federal and state emergency management regulations for registered emergency workers.

(3) A vehicle, fuel, food, water, or other essential materials brought into an area affected by an emergency or disaster by a first informer broadcaster may not be seized or confiscated, except as otherwise authorized by law.

NEW SECTION. Sec. 3. A new section is added to chapter 38.52 RCW to read as follows:

Federal, state, and local agencies, and their employees, are not liable for any action, or failure to act, when facilitating access of a first informer broadcaster to an area affected by an emergency or disaster.

Passed by the House March 4, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 208

[Substitute House Bill 1151]

EDUCATION DATA REPORTING--DATES

AN ACT Relating to modifying education reporting requirements; and amending RCW 28A.165.100, 28A.235.290, 28A.505.040, and 28A.505.080.

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

Sec. 1. RCW 28A.165.100 and 2013 2nd sp.s. c 18 s 204 are each amended to read as follows:

(1) (~~Beginning with the 2014-15 school year,~~) School districts shall record in the statewide individual student data system annual entrance and exit performance data for each student participating in the learning assistance program according to specifications established by the office of the superintendent of public instruction.

(2) By August 1, 2014, and each (~~August 1st~~) September 30th thereafter, school districts shall report to the office of the superintendent of public instruction, using a common format prepared by the office:

(a) The amount of academic growth gained by students participating in the learning assistance program;

(b) The number of students who gain at least one year of academic growth; (~~and~~)

(c) The specific practices, activities, and programs used by each school building that received learning assistance program funding; and

(d) Other data if required by the office of the superintendent of public instruction to demonstrate the efficacy of the learning assistance program expenditures to show student academic growth gains.

(3) By January 1, 2020, and each January 1st thereafter, the office of the superintendent of public instruction shall compile the school district data reported as required by subsection (2) of this section, and report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature with the annual and longitudinal gains for the specific practices, activities, and programs used by the school districts and schools to show which are the most effective. The data must be disaggregated by student subgroups.

Sec. 2. RCW 28A.235.290 and 2018 c 271 s 6 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall develop and implement a plan to increase the number of schools participating in the United States department of agriculture community eligibility provision for the 2018-19 school year and subsequent years. The office shall work jointly with community-based organizations and national experts focused on hunger and nutrition and familiar with the community eligibility provision, at least two school representatives who have successfully implemented community eligibility, and the state agency responsible for medicaid direct certification. The plan must describe how the office of the superintendent of public instruction will:

(a) Identify and recruit eligible schools to implement the community eligibility provision, with the goal of increasing the participation rate of eligible schools to at least the national average;

(b) Provide comprehensive outreach and technical assistance to school districts and schools to implement the community eligibility provision;

(c) Support breakfast after the bell programs authorized by the legislature to adopt the community eligibility provision;

(d) Work with school districts to group schools in order to maximize the number of schools implementing the community eligibility provision; and

(e) Determine the maximum percentage of students eligible for free meals where participation in the community eligibility provision provides the most support for a school, school district, or group of schools.

(2) Until June 30, 2019, the office of the superintendent of public instruction shall convene the organizations working jointly on the plan monthly to report on

the status of the plan and coordinate outreach and technical assistance efforts to schools and school districts.

(3) Beginning in 2018, the office of the superintendent of public instruction shall report annually the number of schools that have implemented the community eligibility provision to the legislature by ~~((September))~~ December 1st of each year. The report shall identify:

- (a) Any barriers to implementation;
- (b) Recommendations on policy and legislative solutions to overcome barriers to implementation;
- (c) Reasons potentially eligible schools and school districts decide not to adopt the community eligibility provision; and
- (d) Approaches in other states to adopting the community eligibility provision.

Sec. 3. RCW 28A.505.040 and 2017 3rd sp.s. c 13 s 604 are each amended to read as follows:

(1) On or before the tenth day of July in each year, all school districts shall prepare their budget for the ensuing fiscal year. The annual budget development process shall include the development or update of a four-year budget plan that includes a four-year enrollment projection. The four-year budget plan must include an estimate of funding necessary to maintain the continuing costs of program and service levels and any existing supplemental contract obligations.

(2) The completed budget must include a summary of the four-year budget plan and set forth the complete financial plan of the district for the ensuing fiscal year.

(3)(a) Upon completion of their budgets, every school district shall electronically publish a notice stating that the district has completed the budget, posted it electronically, placed it on file in the school district administration office, and that a copy of the budget and a summary of the four-year budget plan will be furnished to any person who calls upon the district for it.

(b) School districts shall submit one copy of their proposed budget and the four-year budget plan summary to their educational service districts ~~((and the office of the superintendent of public instruction))~~ for review and comment by July 10th. The superintendent of public instruction may delay the dates in this section if the state's operating budget is not finally approved by the legislature until after June 1st.

(c) The office of the superintendent of public instruction shall consider the information provided under (b) of this subsection when ranking each school district by the financial health of the school district in order to provide information for districts to avoid potential financial difficulty, insolvency, or binding conditions.

Sec. 4. RCW 28A.505.080 and 1984 c 128 s 8 are each amended to read as follows:

Copies of the budgets for all local school districts, including the four-year budget plan prepared under RCW 28A.505.040, shall be filed with the superintendent of public instruction no later than September 10th. One copy will be retained by the educational service district.

Passed by the House March 6, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 30, 2019.
 Filed in Office of Secretary of State May 1, 2019.

CHAPTER 209

[Engrossed House Bill 1175]

HEALTH CARE CONSENT--INCAPACITATED PERSONS

AN ACT Relating to authorization of health care decisions by an individual or designated person; and amending RCW 7.70.065 and 70.122.030.

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

Sec. 1. RCW 7.70.065 and 2017 c 275 s 1 are each amended to read as follows:

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(e), to consent may be obtained from a person authorized to consent on behalf of such patient.

(a) Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent, based upon a reason other than incapacity as defined in RCW 11.88.010(1)(d), shall be a member of one of the following classes of persons in the following order of priority:

- (i) The appointed guardian of the patient, if any;
- (ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;
- (iii) The patient's spouse or state registered domestic partner;
- (iv) Children of the patient who are at least eighteen years of age;
- (v) Parents of the patient; ~~(and)~~
- (vi) Adult brothers and sisters of the patient;
- (vii) Adult grandchildren of the patient who are familiar with the patient;
- (viii) Adult nieces and nephews of the patient who are familiar with the patient;
- (ix) Adult aunts and uncles of the patient who are familiar with the patient;

and

- (x)(A) An adult who:
 - (I) Has exhibited special care and concern for the patient;
 - (II) Is familiar with the patient's personal values;
 - (III) Is reasonably available to make health care decisions;
 - (IV) Is not any of the following: A physician to the patient or an employee of the physician; the owner, administrator, or employee of a health care facility, nursing home, or long-term care facility where the patient resides or receives care; or a person who receives compensation to provide care to the patient; and
 - (V) Provides a declaration under (a)(x)(B) of this subsection.
- (B) An adult who meets the requirements of (a)(x)(A) of this subsection shall provide a declaration, which is effective for up to six months from the date of the declaration, signed and dated under penalty of perjury pursuant to RCW 9A.72.085, that recites facts and circumstances demonstrating that he or she is familiar with the patient and that he or she:

- (I) Meets the requirements of (a)(x)(A) of this subsection;
- (II) Is a close friend of the patient;
- (III) Is willing and able to become involved in the patient's health care;

(IV) Has maintained such regular contact with the patient as to be familiar with the patient's activities, health, personal values, and morals; and

(V) Is not aware of a person in a higher priority class willing and able to provide informed consent to health care on behalf of the patient.

(C) A health care provider may, but is not required to, rely on a declaration provided under (a)(x)(B) of this subsection. The health care provider or health care facility where services are rendered is immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration provided in compliance with (a)(x)(B) of this subsection.

(b) If the health care provider seeking informed consent for proposed health care of the patient who is not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(i) If a person of higher priority under this section has refused to give such authorization; or

(ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

(d) No rights under Washington's death with dignity act, chapter 70.245 RCW, may be exercised through a person authorized to provide informed consent to health care on behalf of a patient not competent to consent under RCW 11.88.010(1)(e).

(2) Informed consent for health care, including mental health care, for a patient who is not competent, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care, including mental health care, on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b)(i) Informed consent for health care on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent may be obtained from a school nurse, school counselor, or homeless student liaison when:

(A) Consent is necessary for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries;

(B) The minor patient meets the definition of a "homeless child or youth" under the federal McKinney-Vento homeless education assistance improvements act of 2001, P.L. 107-110, January 8, 2002, 115 Stat. 2005; and

(C) The minor patient is not under the supervision or control of a parent, custodian, or legal guardian, and is not in the care and custody of the department of social and health services.

(ii) A person authorized to consent to care under this subsection (2)(b) and the person's employing school or school district are not subject to administrative sanctions or civil damages resulting from the consent or nonconsent for care, any care, or payment for any care, rendered pursuant to this section. Nothing in this section prevents a health care facility or a health care provider from seeking reimbursement from other sources for care provided to a minor patient under this subsection (2)(b).

(iii) Upon request by a health care facility or a health care provider, a person authorized to consent to care under this subsection (2)(b) must provide to the person rendering care a declaration signed and dated under penalty of perjury pursuant to RCW 9A.72.085 stating that the person is a school nurse, school counselor, or homeless student liaison and that the minor patient meets the elements under (b)(i) of this subsection. The declaration must also include written notice of the exemption from liability under (b)(ii) of this subsection.

(c) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative

responsible for the health care of the minor patient, or person claiming to be authorized to consent to the health care of the minor patient.

(d) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection. However, there is no obligation to require such documentation.

(e) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection.

(3) For the purposes of this section, "health care," "health care provider," and "health care facility" shall be defined as established in RCW 70.02.010.

(4) A person who knowingly provides a false declaration under this section shall be subject to criminal penalties under chapter 9A.72 RCW.

Sec. 2. RCW 70.122.030 and 1992 c 98 s 3 are each amended to read as follows:

(1) Any adult person may execute a directive directing the withholding or withdrawal of life-sustaining treatment in a terminal condition or permanent unconscious condition. The directive shall be signed by the declarer and acknowledged before a notary public or other individual authorized by law to take acknowledgments or signed by the declarer in the presence of two witnesses not related to the declarer by blood or marriage and who would not be entitled to any portion of the estate of the declarer upon declarer's decease under any will of the declarer or codicil thereto then existing or, at the time of the directive, by operation of law then existing. In addition, a witness to a directive shall not be the attending physician, an employee of the attending physician or a health facility in which the declarer is a patient, or any person who has a claim against any portion of the estate of the declarer upon declarer's decease at the time of the execution of the directive. The directive, or a copy thereof, shall be made part of the patient's medical records retained by the attending physician, a copy of which shall be forwarded by the custodian of the records to the health facility when the withholding or withdrawal of life-support treatment is contemplated. The directive may be in the following form and may include a notarial certificate for an acknowledgment in an individual capacity in short form as permitted by state law, but in addition may include other specific directions:

Health Care Directive

Directive made this day of (month, year).

I , having the capacity to make health care decisions, willfully, and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, and do hereby declare that:

(a) If at any time I should be diagnosed in writing to be in a terminal condition by the attending physician, or in a permanent unconscious condition by two physicians, and where the application of life-sustaining treatment would serve only to artificially prolong the process of my dying, I direct that such

treatment be withheld or withdrawn, and that I be permitted to die naturally. I understand by using this form that a terminal condition means an incurable and irreversible condition caused by injury, disease, or illness, that would within reasonable medical judgment cause death within a reasonable period of time in accordance with accepted medical standards, and where the application of life-sustaining treatment would serve only to prolong the process of dying. I further understand in using this form that a permanent unconscious condition means an incurable and irreversible condition in which I am medically assessed within reasonable medical judgment as having no reasonable probability of recovery from an irreversible coma or a persistent vegetative state.

(b) In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this directive shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of such refusal. If another person is appointed to make these decisions for me, whether through a durable power of attorney or otherwise, I request that the person be guided by this directive and any other clear expressions of my desires.

(c) If I am diagnosed to be in a terminal condition or in a permanent unconscious condition (check one):

I DO want to have artificially provided nutrition and hydration.

I DO NOT want to have artificially provided nutrition and hydration.

(d) If I have been diagnosed as pregnant and that diagnosis is known to my physician, this directive shall have no force or effect during the course of my pregnancy.

(e) I understand the full import of this directive and I am emotionally and mentally capable to make the health care decisions contained in this directive.

(f) I understand that before I sign this directive, I can add to or delete from or otherwise change the wording of this directive and that I may add to or delete from this directive at any time and that any changes shall be consistent with Washington state law or federal constitutional law to be legally valid.

(g) It is my wish that every part of this directive be fully implemented. If for any reason any part is held invalid it is my wish that the remainder of my directive be implemented.

Signed

City, County, and State of Residence

The declarer has been personally known to me or has provided proof of identity and I believe him or her to be capable of making health care decisions.

Witness

Witness

(2) Prior to withholding or withdrawing life-sustaining treatment, the diagnosis of a terminal condition by the attending physician or the diagnosis of a permanent unconscious state by two physicians shall be entered in writing and made a permanent part of the patient's medical records.

(3) A directive executed in another political jurisdiction is valid to the extent permitted by Washington state law and federal constitutional law.

Passed by the House February 14, 2019.

Passed by the Senate April 15, 2019.
Approved by the Governor April 30, 2019.
Filed in Office of Secretary of State May 1, 2019.

CHAPTER 210

[Substitute House Bill 1197]

GOLD STAR LICENSE PLATES--VEHICLE FEES AND TAXES

AN ACT Relating to gold star license plates; and amending RCW 46.18.245.

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

Sec. 1. RCW 46.18.245 and 2017 c 24 s 1 are each amended to read as follows:

(1) A registered owner who is an eligible family member of a member of the United States armed forces who died while in service to his or her country, or as a result of his or her service, may apply to the department for special gold star license plates for use on a motor vehicle. The registered owner must:

(a) Be a resident of this state;

(b) Provide proof to the satisfaction of the department that the registered owner is an eligible family member, which includes:

(i) A widow;

(ii) A widower;

(iii) A biological parent;

(iv) An adoptive parent;

(v) A stepparent;

(vi) An adult in loco parentis or foster parent;

(vii) A biological child;

(viii) An adopted child; or

(ix) A sibling;

(c) Provide certification from the Washington state department of veterans affairs that the registered owner qualifies for the special license plate under this section; and

(d) Be recorded as the registered owner of the motor vehicle on which the gold star license plates will be displayed(~~and~~

~~(e) Except as provided in subsection (2) of this section, pay all fees and taxes required by law for registering the motor vehicle)).~~

~~(2)((a) In addition to the license plate fee exemption in subsection (3)(b) of this section, the widow or widower recipient of a gold star license plate under this section is also exempt from annual vehicle registration fees for one personal use motor vehicle.~~

~~(b))~~ In lieu of applying for a gold star license plate under this section, an eligible widow or widower under subsection (1)(b) of this section may apply for a standard issue license plate or any qualifying special license plate for one personal use motor vehicle and be exempt from ~~((both))~~ payment of annual vehicle registration fees, motor vehicle excise taxes, and license plate fees for that vehicle.

(3)(a) For a widow, a widower, a biological parent, an adoptive parent, a stepparent, or an adult in loco parentis or foster parent applicant, a gold star license plate((s)) must be issued:

~~((a))~~ (i) Only for motor vehicles owned by qualifying applicants; and
~~((b))~~ (ii) Without payment of any vehicle license fees, license plate fees, and motor vehicle excise taxes for one motor vehicle. For other motor vehicles, a qualified widow, a widower, a biological parent, an adoptive parent, a stepparent, or an adult in loco parentis or foster parent applicant may purchase gold star license plates without payment of any license plate fees, but the applicant must pay all other fees and taxes required by law for registering the motor vehicle.

(b) For a biological child, an adopted child, or a sibling applicant, a gold star license plate must be issued:

(i) Only for motor vehicles owned by qualifying applicants; and

(ii) Without payment of any license plate fees but the applicant must pay all other fees and taxes required by law for registering the motor vehicle.

(4) Gold star license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(5) Gold star license plates may be transferred from one motor vehicle to another motor vehicle owned by the eligible family member, as described in subsection (1) of this section, upon application to the department, county auditor or other agent, or subagent appointed by the director.

Passed by the House April 18, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 211

[House Bill 1252]

CRIMES COMMITTED BY BUSINESS ENTITIES--PENALTIES

AN ACT Relating to crime committed by business entities; amending RCW 9A.08.030, 10.01.070, 10.01.090, and 10.01.100; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. This act shall be known and cited as the corporate crime act.

Sec. 2. RCW 9A.08.030 and 2011 c 336 s 352 are each amended to read as follows:

(1) As used in this section:

(a) "Agent" means any director, officer, or employee of ~~((a corporation))~~ an entity, or any other person who is authorized to act on behalf of the ~~((corporation))~~ entity;

(b) ~~(("Corporation"))~~ "Entity" includes ~~((a joint stock association))~~ any domestic entity formed under or governed as to its internal affairs by Title 23, 23B, 24, or 25 RCW or any foreign business entity formed under or governed as to its internal affairs by the laws of a jurisdiction other than this state;

(c) "Governor" has the same meaning as provided in RCW 23.95.105.

(d) "High managerial agent" means ((an officer or director of a corporation or any other agent)) a governor or person in a position of comparable authority ((with respect to the formulation of corporate policy or the supervision in a

~~managerial capacity of)~~ in an entity not governed by chapter 23.95 RCW, and any other agent who manages subordinate employees.

(2) ~~(A corporation)~~ An entity is guilty of an offense when:

(a) The conduct constituting the offense consists of an omission to discharge a specific duty of performance imposed on ~~((corporations))~~ entities by law; or

(b) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or tolerated by ~~((the board of directors or by))~~ a high managerial agent acting within the scope of his or her ~~((employment))~~ duties and on behalf of the ~~((corporation))~~ entity; or

(c) The conduct constituting the offense is engaged in by an agent of the ~~((corporation))~~ entity, other than a high managerial agent, while acting within the scope of his or her ~~((employment))~~ duties and ~~((in))~~ on behalf of the ~~((corporation))~~ entity and (i) the offense is a gross misdemeanor or misdemeanor, or (ii) the offense is one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on ~~((a corporation))~~ an entity.

(3) A person is criminally liable for conduct constituting an offense which he or she performs or causes to be performed in the name of or on behalf of ~~((a corporation))~~ an entity to the same extent as if such conduct were performed in his or her own name or behalf.

(4) Whenever a duty to act is imposed by law upon ~~((a corporation))~~ an entity, any agent of the ~~((corporation))~~ entity who knows he or she has or shares primary responsibility for the discharge of the duty is criminally liable for a reckless omission or, if a high managerial agent, criminally negligent omission to perform the required act to the same extent as if the duty were by law imposed directly upon such agent.

(5) Every ~~((corporation))~~ entity, whether foreign or domestic, which shall violate any provision of RCW 9A.28.040, shall forfeit every right and franchise to do business in this state. The attorney general shall begin and conduct all actions and proceedings necessary to enforce the provisions of this subsection.

Sec. 3. RCW 10.01.070 and 1987 c 202 s 147 are each amended to read as follows:

(1) Whenever an indictment or information shall be filed in any superior court against ~~((a corporation))~~ an entity charging it with the commission of a crime, a summons shall be issued by the clerk of such court, signed by one of the judges thereof, commanding the sheriff forthwith to notify the accused thereof, and commanding it to appear before such court at such time as shall be specified in said summons. Such summons and a copy of the indictment or information shall be at once delivered by such clerk to said sheriff and by the sheriff forthwith served and returned in the manner provided for service of summons upon such ~~((corporation))~~ entity in a civil action. Whenever a complaint against ~~((a corporation))~~ an entity, charging it with the commission of a crime, shall be made before any district or municipal judge, a like summons, signed by such judge, shall be issued, which, together with a copy of said complaint, shall be delivered to the sheriff at once and by the sheriff forthwith served as herein provided.

(2) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030.

Sec. 4. RCW 10.01.090 and 1987 c 202 s 148 are each amended to read as follows:

~~((If the corporation shall be found guilty and a fine imposed, it))~~ (1) An entity convicted of an offense may be ordered to pay legal financial obligations, including restitution, crime victims' assessments, costs, fines, penalties, and other assessments authorized or required by law. Legal financial obligations imposed upon an entity shall be entered and docketed by the clerk, or district or municipal court as a judgment against the ((corporation)) entity, and it shall be of the same force and effect and be enforced against such ((corporation)) entity in the same manner as a judgment in a civil action. Notwithstanding any other provisions pertaining to legal financial obligations, all legal financial obligations imposed in a judgment against an entity under this section bear interest from the date of the judgment until payment at the rate applicable to civil judgments under RCW 4.56.110. When an entity is ordered to pay restitution, payments to the clerk must be distributed to restitution prior to all other obligations.

(2) Except as otherwise provided under subsection (1) of this section, payments on legal financial obligations must be collected and distributed according to the requirements under RCW 3.50.100, 3.62.020, 3.62.040, 9.92.070, 9.94A.760, 10.01.160, 10.01.170, 10.01.180, 10.46.190, 10.64.015, 10.73.160, 10.82.090, 35.20.220, and any other sections applicable to legal financial obligations imposed as a result of a criminal conviction.

(3) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030.

Sec. 5. RCW 10.01.100 and 1925 ex.s. c 101 s 1 are each amended to read as follows:

~~((Every corporation guilty of a violation of any law of the state of Washington, where the prescribed penalty is, for any reason, incapable of execution or enforcement against such corporation, shall be punished by a fine of not more than ten thousand dollars, if such offense is a felony; or, by a fine of not more than one thousand dollars if such offense is a gross misdemeanor; or, by a fine of not more than five hundred dollars if such offense is a misdemeanor.))~~ (1) When imposed on an entity for any criminal offense for which no special business fine is specified, a sentence to pay a fine may not exceed:

(a) One million dollars for a class A felony;

(b) Seven hundred fifty thousand dollars for a class B felony;

(c) Five hundred thousand dollars for a class C felony;

(d) Two hundred fifty thousand dollars for a gross misdemeanor; and

(e) Fifty thousand dollars for a misdemeanor.

(2) If a special fine for entities is expressly specified in the statute that defines an offense, the fine fixed must be within the limits specified in the statute.

(3) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030.

Passed by the House April 18, 2019.

Passed by the Senate April 8, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 212

[Substitute House Bill 1295]

PUBLIC WORKS CONTRACTING--VARIOUS PROVISIONS

AN ACT Relating to public works contracting procedures; amending RCW 39.10.250, 39.10.270, 39.10.300, 39.10.320, 39.10.330, 39.10.420, 39.10.430, 39.10.440, 39.10.450, and 39.10.470; and reenacting and amending RCW 39.10.210, 42.56.270, and 43.131.408.

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

Sec. 1. RCW 39.10.210 and 2014 c 42 s 1 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) "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) "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.

(4) "Committee," unless otherwise noted, means the project review committee.

(5) "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.

(6) "Disadvantaged business enterprise" means any business entity certified with the office of minority and women's business enterprises under chapter 39.19 RCW.

(7) "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.

(8) "Heavy civil construction project" means a civil engineering project, the predominant features of which are infrastructure improvements.

(9) "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 negotiated, definitive work orders for public works as defined in RCW 39.04.010.

(10) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

(11) "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.

(12) "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.

(13) "Percent fee" means the percentage amount to be earned by the general contractor/construction manager as overhead and profit.

(14) "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.

(15) "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.

~~((15))~~ (16) "Public works project" means any work for a public body within the definition of "public work" in RCW 39.04.010.

~~((16))~~ (17) "Small business entity" means a small business as defined in RCW 39.26.010.

~~((17))~~ (18) "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.

~~((18))~~ (19) "Total project cost" means the cost of the project less financing and land acquisition costs.

~~((19))~~ (20) "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. The prices may include: All the costs of materials; labor; equipment; overhead, including bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.

~~((20))~~ (21) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

Sec. 2. RCW 39.10.250 and 2013 c 222 s 5 are each amended to read as follows:

The committee shall:

(1) Certify, or renew certification for, public bodies to use design-build or general contractor/construction manager contracting procedures, or both;

(2) Review and approve the use of the design-build or general contractor/construction manager contracting procedures on a project by project basis for public bodies that are not certified under RCW 39.10.270;

~~(3) ((Review and approve not more than fifteen projects using the design-build contracting procedure by noncertified public bodies for projects that have a total project cost between two million and ten million dollars. Projects must meet the criteria in RCW 39.10.300(1). Where possible, the committee shall approve projects among multiple public bodies. At least annually, the committee shall report to the board regarding the committee's review procedure of these projects and its recommendations for further use; and~~

~~(4))~~ Review and approve not more than two design-build demonstration projects that include procurement of operations and maintenance services for a period longer than three years.

Sec. 3. RCW 39.10.270 and 2017 c 211 s 1 are each amended to read as follows:

(1) A public body may apply for certification to use the design-build or general contractor/construction manager contracting procedure, or both. Once certified, a public body may use the contracting procedure for which it is certified on individual projects without seeking committee approval for a period of three years. ~~((Public bodies certified to use the design-build procedure are limited to no more than five projects with a total project cost between two and ten million dollars during the certification period.))~~ A public body seeking certification must submit to the committee an application in a format and manner as prescribed by the committee. The application must include a description of the public body's qualifications, its capital plan during the certification period, and its intended use of alternative contracting procedures.

(2) A public body seeking certification for the design-build procedure must demonstrate successful management of at least one design-build project within the previous five years. A public body seeking certification for the general contractor/construction manager procedure must demonstrate successful management of at least one general contractor/construction manager project within the previous five years.

(3) To certify a public body, the committee shall determine that the public body:

(a) Has the necessary experience and qualifications to determine which projects are appropriate for using alternative contracting procedures;

(b) Has the necessary experience and qualifications to carry out the alternative contracting procedure including, but not limited to: (i) Project delivery knowledge and experience; (ii) personnel with appropriate construction experience; (iii) a management plan and rationale for its alternative public works projects; (iv) demonstrated success in managing public works projects; (v) the ability to properly manage its capital facilities plan including, but not limited to, appropriate project planning and budgeting experience; and (vi) the ability to meet requirements of this chapter; and

(c) Has resolved any audit findings on previous public works projects in a manner satisfactory to the committee.

(4) The committee shall ~~((, if practicable,))~~ make its determination at the public meeting during which an application for certification is reviewed. Public comments must be considered before a determination is made. Within ten business days of the public meeting, the committee shall provide a written determination to the public body, and make its determination available to the public on the committee's web site.

(5) The committee may revoke any public body's certification upon a finding, after a public hearing, that its use of design-build or general contractor/construction manager contracting procedures no longer serves the public interest.

(6) The committee may renew the certification of a public body for additional three-year periods. The public body must submit an application for recertification at least three months before the initial certification expires. The committee may accept late applications, if administratively feasible, to avoid expiration of certification on a case-by-case basis. The application shall include updated information on the public body's experience and current staffing with

the procedure it is applying to renew, and any other information requested in advance by the committee. The committee must review the application for recertification at a meeting held before expiration of the applicant's initial certification period. A public body must reapply for certification under the process described in subsection (1) of this section once the period of recertification expires.

(7) Certified public bodies must submit project data information as required in RCW 39.10.320 and 39.10.350.

Sec. 4. RCW 39.10.300 and 2013 c 222 s 9 are each amended to read as follows:

(1) Subject to the requirements in RCW 39.10.250, 39.10.270, or 39.10.280, public bodies may utilize the design-build procedure, including progressive design-build, for public works projects in which the total project cost is over ~~((ten))~~ two million dollars and where:

(a) The construction activities are highly specialized and a design-build approach is critical in developing the construction methodology; or

(b) The projects selected provide opportunity for greater innovation or efficiencies between the designer and the builder; or

(c) Significant savings in project delivery time would be realized.

(2) Subject to the process in RCW 39.10.270 or 39.10.280, public bodies may use the design-build procedure for parking garages, regardless of cost.

(3) The design-build procedure may be used for the construction or erection of portable facilities as defined in WAC 392-343-018, preengineered metal buildings, or not more than ten prefabricated modular buildings per installation site, regardless of cost and is not subject to approval by the committee.

(4) Except for utility projects and approved demonstration projects, the design-build procedure may not be used to procure operations and maintenance services for a period longer than three years. State agency projects that propose to use the design-build-operate-maintain procedure shall submit cost estimates for the construction portion of the project consistent with the office of financial management's capital budget requirements. Operations and maintenance costs must be shown separately and must not be included as part of the capital budget request.

~~(5) ((Subject to the process in RCW 39.10.280, public bodies may use the design-build procedure for public works projects in which the total project cost is between two million and ten million dollars and that meet one of the criteria in subsection (1)(a), (b), or (c) of this section.~~

~~(6))~~ Subject to the process in RCW 39.10.280, a public body may seek committee approval for a design-build demonstration project that includes procurement of operations and maintenance services for a period longer than three years.

Sec. 5. RCW 39.10.320 and 2013 c 222 s 10 are each amended to read as follows:

(1) A public body utilizing the design-build contracting procedure shall provide:

(a) Reasonable budget contingencies totaling not less than five percent of the anticipated contract value;

(b) Staff or consultants with expertise and prior experience in the management of comparable projects;

(c) Contract documents that include alternative dispute resolution procedures to be attempted prior to the initiation of litigation;

(d) Submission of project information, as required by the board; ~~((and))~~

(e) Contract documents that require the contractor, subcontractors, and designers to submit project information required by the board; and

(f) Contract documents that require the design builder to submit plans for inclusion of underutilized firms as subcontractors and suppliers including, but not limited to, the office of minority and women's business enterprises certified businesses, veteran certified businesses, and small businesses as allowed by law.

(2) A public body utilizing the design-build contracting procedure may provide incentive payments to contractors for early completion, cost savings, or other goals if such payments are identified in the request for proposals.

Sec. 6. RCW 39.10.330 and 2014 c 19 s 1 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. 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 request for qualifications documents shall include:

(a) A ~~((general))~~ description of the project ~~((that provides sufficient information for proposers to submit qualifications))~~ 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 ~~((including, but not limited to, submission of the proposer's accident prevention program));~~

(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 ~~((request for))~~ qualifications shall include ~~((, but not be limited to,))~~ technical qualifications, such as specialized experience and technical competence of the firms and the key design and construction personnel; ~~((capability))~~ capacity to perform; the proposer's past performance ~~((of the proposers' team, including the architect engineer and construction members))~~ in utilization of the office of minority and women's business enterprises certified businesses, to the extent permitted by law; ability to provide a performance and payment bond for the project; and other appropriate factors. Evaluation factors may also include ~~((, (A)))~~, but are not limited to, the proposer's past performance in utilization of small business entities ~~((, and (B) disadvantaged business enterprises))~~. 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 may also include, but not be limited to, ~~((the factors listed in~~

~~(d)(i) of this subsection, as well as technical approach design concept; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected workloads of the firm; location; and cost or price-related factors that may include operating costs. The public body may also consider a proposer(s)) the technical approach, design concept, and the outreach plan to include small business entities and disadvantaged business enterprises as subconsultants, subcontractors, and suppliers for the project(~~(- Alternatively, if the public body determines that all finalists will be capable of producing a design that adequately meets project requirements, the public body may award the contract to the firm that submits the responsive proposal with the lowest price));~~~~

(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 ~~((form of the))~~ proposed contract ~~((to be awarded));~~

(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(~~(, which shall provide the following information))~~. The request for proposal documents shall include:

(a) ~~((A detailed description of the project including programmatic, performance, and technical requirements and specifications; functional and operational elements; building performance goals and validation requirements; minimum and maximum net and gross areas of any building; and, at the discretion of the public body, preliminary engineering and architectural drawings; and~~

~~(b) The target budget for the design-build portion of the project))~~ 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. ~~((Design-build contracts shall be awarded using the procedures in (a) or (b) of this subsection. The public body must identify in the request for qualifications which procedure will be used.~~

~~(a))~~ The finalists' proposals shall be evaluated and scored based solely on the factors, weighting, and process identified in the ~~((initial))~~ 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 ~~((firm))~~ finalist submitting the highest scored proposal. If the public body is unable to execute a contract with the ~~((firm))~~ finalist submitting the highest scored proposal, negotiations with that ~~((firm))~~ finalist may be suspended or terminated and the public body may proceed to negotiate with the next highest scored ~~((firm))~~ finalist. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

~~((b) If the public body determines that all finalists are capable of producing a design that adequately meets project requirements, the public body may award the contract to the firm that submits the responsive proposal with the lowest price.))~~

(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 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 ~~((consider))~~ recognize the level of effort required to meet the selection criteria.

Sec. 7. RCW 39.10.420 and 2017 c 136 s 1 are each amended to read as follows:

(1) ~~((The following))~~ All public bodies of the state of Washington are authorized to award job order contracts and use the job order contracting procedure(:

~~(a) The department of enterprise services;~~

~~(b) The state universities, regional universities, and The Evergreen State College;~~

~~(c) Sound transit (central Puget Sound regional transit authority);~~

~~(d) Every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755;~~

~~(e) Every county with a population greater than four hundred fifty thousand;~~

~~(f) Every port district with total revenues greater than fifteen million dollars per year;~~

~~(g) Every public utility district with revenues from energy sales greater than twenty three million dollars per year;~~

~~(h) Every school district;~~

~~(i) The state ferry system;~~

~~(j) The Washington state department of transportation, for the administration of building improvement, replacement, and renovation projects only;~~

~~(k) Every public hospital district with total revenues greater than fifteen million dollars per year; and~~

~~(l) Every public transportation benefit area authority as defined under RCW 36.57A.010)).~~

(2)(a) The department of enterprise services may issue job order contract work orders for Washington state parks department projects and public hospital districts.

(b) The department of enterprise services, the University of Washington, and Washington State University may issue job order contract work orders for the state regional universities and The Evergreen State College.

(3) Public bodies may use a job order contract for public works projects when a determination is made that the use of job order contracts will benefit the public by providing an effective means of reducing the total lead-time and cost for the construction of public works projects for repair and renovation required at public facilities through the use of unit price books and work orders by eliminating time-consuming, costly aspects of the traditional public works process, which require separate contracting actions for each small project.

Sec. 8. RCW 39.10.430 and 2007 c 494 s 402 are each amended to read as follows:

(1) Job order contracts shall be awarded through a competitive process using public requests for proposals.

(2) The public body shall make an effort to solicit proposals from certified minority or certified woman-owned contractors to the extent permitted by the Washington state civil rights act, RCW 49.60.400.

(3) The public body shall publish, at least once in a statewide publication and legal newspaper of general circulation published in every county in which the public works project is anticipated, a request for proposals for job order contracts and the availability and location of the request for proposal documents. The public body shall ensure that the request for proposal documents at a minimum includes:

(a) A detailed description of the scope of the job order contract including performance, technical requirements and specifications, functional and operational elements, minimum and maximum work order amounts, duration of the contract, and options to extend the job order contract;

(b) The reasons for using job order contracts;

(c) A description of the qualifications required of the proposer;

- (d) The identity of the specific unit price book to be used;
- (e) The minimum contracted amount committed to the selected job order contractor;
- (f) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. The public body shall ensure that evaluation factors include, but are not limited to, proposal price and the ability of the proposer to perform the job order contract. In evaluating the ability of the proposer to perform the job order contract, the public body may consider: The ability of the professional personnel who will work on the job order contract; past performance on similar contracts; ability to meet time and budget requirements; past performance on approved subcontractor inclusion plans; ability to provide a performance and payment bond for the job order contract; recent, current, and projected workloads of the proposer; location; and the concept of the proposal;
- (g) The form of the contract to be awarded;
- (h) The method for pricing renewals of or extensions to the job order contract;
- (i) A notice that the proposals are subject to RCW 39.10.470; and
- (j) Other information relevant to the project.

(4) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, the finalists shall submit final proposals, including sealed bids based upon the identified unit price book. Such bids may be in the form of coefficient markups from listed price book costs. The public body shall award the contract to the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public request for proposals and will notify the board of the award of the contract.

(5) The public body shall provide a protest period of at least ten business days following the day of the announcement of the apparent successful proposal to allow a protester to file a detailed statement of the grounds of the protest. The public body shall promptly make a determination on the merits of the protest and provide to all proposers a written decision of denial or acceptance of the protest. The public body shall not execute the contract until two business days following the public body's decision on the protest.

(6) The requirements of RCW 39.30.060 do not apply to requests for proposals for job order contracts.

Sec. 9. RCW 39.10.440 and 2015 c 173 s 1 are each amended to read as follows:

(1) The maximum total dollar amount that may be awarded under a job order contract is four million dollars per year for a maximum of three years. Any unused capacity from the previous year may be carried over for one year and added to the immediate following year's limit. The maximum annual volume including unused capacity shall not exceed the limit of two years. The maximum total dollar amount that may be awarded under a job order contract for the department of enterprise services, counties with a population of more than one million, and cities with a population of more than four hundred thousand is six million dollars per year for a maximum of three years. The maximum total dollar amounts are exclusive of Washington state sales and use tax.

(2) Job order contracts may be executed for an initial contract term of not to exceed two years, with the option of extending or renewing the job order contract for one year. All extensions or renewals must be priced as provided in the request for proposals. The extension or renewal must be mutually agreed to by the public body and the job order contractor.

(3) A public body may have no more than ~~((two))~~ three job order contracts in effect at any one time, with the exception of the department of enterprise services, which may have six job order contracts in effect at any one time.

(4) At least ninety percent of work contained in a job order contract must be subcontracted to entities other than the job order contractor. The job order contractor must distribute contracts as equitably as possible among qualified and available subcontractors including certified minority and woman-owned subcontractors to the extent permitted by law as demonstrated on the subcontractor and supplier project submission, and shall limit subcontractor bonding requirements to the greatest extent possible.

(5) The job order contractor shall publish notification of intent to perform public works projects at the beginning of each contract year in a statewide publication and in a legal newspaper of general circulation in every county in which the public works projects are anticipated.

(6) Job order 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 rates in effect at the time the individual work order is issued.

(7) If, in the initial contract term, the public body, at no fault of the job order contractor, fails to issue the minimum amount of work orders stated in the public request for proposals, the public body shall pay the contractor an amount equal to the difference between the minimum work order amount and the actual total of the work orders issued multiplied by an appropriate percentage for overhead and profit contained in the contract award coefficient for services as specified in the request for proposals. This is the contractor's sole remedy.

(8) All job order contracts awarded under this section must be signed before July 1, 2021; however the job order contract may be extended or renewed as provided for in this section.

(9) Public bodies may amend job order contracts awarded prior to July 1, 2007, in accordance with this chapter.

Sec. 10. RCW 39.10.450 and 2012 c 102 s 2 are each amended to read as follows:

(1) The maximum dollar amount for a work order is ~~((three))~~ five hundred ~~((fifty))~~ thousand dollars, excluding Washington state sales and use tax.

(2) All work orders issued for the same project shall be treated as a single work order for purposes of the dollar limit on work orders.

(3) No more than twenty percent of the dollar value of a work order may consist of items of work not contained in the unit price book.

(4) Any new stand-alone permanent~~((,- enclosed building space))~~ structure constructed under a work order shall not exceed ~~((two))~~ three thousand gross square feet.

(5) A public body may issue no work orders under a job order contract until it has approved, in consultation with the office of minority and women's business enterprises or the equivalent local agency, a plan prepared by the job order

contractor that equitably spreads certified women and minority business enterprise subcontracting opportunities, to the extent permitted by the Washington state civil rights act, RCW 49.60.400, among the various subcontract disciplines.

(6) For purposes of chapters 39.08, 39.12, 39.76, and 60.28 RCW, each work order issued shall be treated as a separate contract. The alternate filing provisions of RCW 39.12.040(2) apply to each work order that otherwise meets the eligibility requirements of RCW 39.12.040(2).

(7) The job order contract shall not be used for the procurement of architectural or engineering services not associated with specific work orders. Architectural and engineering services shall be procured in accordance with RCW 39.80.040.

(8) Any work order over three hundred fifty thousand dollars, excluding Washington state sales and use tax, and including over six hundred single trade hours shall utilize a state registered apprenticeship program for that single trade in accordance with RCW 39.04.320. Awarding entities may adjust this requirement for a specific work order 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; or

(d) Other criteria the awarding entity deems appropriate.

Sec. 11. RCW 39.10.470 and 2014 c 19 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, all proceedings, records, contracts, and other public records relating to alternative public works transactions under this chapter shall be open to the inspection of any interested person, firm, or corporation in accordance with chapter 42.56 RCW.

(2) Trade secrets, as defined in RCW 19.108.010, or other proprietary information submitted by a bidder, offeror, or contractor in connection with an alternative public works transaction under this chapter shall not be subject to chapter 42.56 RCW if the bidder, offeror, or contractor specifically states in writing the reasons why protection is necessary, and identifies the data or materials to be protected.

(3) ~~((Proposals submitted by design-build finalists))~~ All documents related to a procurement under RCW 39.10.330 are exempt from disclosure until the notification of the highest scoring finalist is made in accordance with RCW 39.10.330~~((5))~~ (6) or the selection process is terminated, except as expressly required under RCW 39.10.330(3).

Sec. 12. RCW 42.56.270 and 2018 c 201 s 8008, 2018 c 196 s 21, and 2018 c 4 s 9 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 ((~~or~~)); (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 RCW, 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), marijuana 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;

(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); and

(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;

(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 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 70.95N RCW to implement chapter 70.95N 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 chapter 43.350 RCW, 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 70.95N.190(4);

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, 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 marijuana as allowed under chapter 69.50 RCW;

(25) Marijuana 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 marijuana 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 marijuana research licenses under RCW 69.50.372, or in reports submitted by marijuana 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 marijuana business under RCW 69.50.395, which may be submitted to or obtained by the state liquor and cannabis board; (~~and~~)

(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; and

(30) Proprietary information filed with the department of health under chapter 69.48 RCW.

Sec. 13. RCW 43.131.408 and 2017 c 211 s 2 and 2017 c 136 s 2 are each reenacted and amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2022:

(1) RCW 39.10.200 and 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, & 1994 c 132 s 1;

(2) RCW 39.10.210 and 2019 c . . . s 1 (section 1 of this act), 2014 c 42 s 1, & 2013 c 222 s 1;

(3) RCW 39.10.220 and 2013 c 222 s 2, 2007 c 494 s 102, & 2005 c 377 s 1;

(4) RCW 39.10.230 and 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 2013 c 222 s 4 & 2007 c 494 s 104;

(6) RCW 39.10.250 and 2019 c . . . s 2 (section 2 of this act), 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 . . . s 3 (section 3 of this act), 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 2019 c . . . s 4 (section 4 of this act), 2013 c 222 s 9, 2009 c 75 s 4, & 2007 c 494 s 201;

(12) RCW 39.10.320 and 2019 c . . . s 5 (section 5 of this act), 2013 c 222 s 10, 2007 c 494 s 203, & 1994 c 132 s 7;

(13) RCW 39.10.330 and 2019 c . . . s 6 (section 6 of this act), 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 2014 c 42 s 4 & 2007 c 494 s 302;

(16) RCW 39.10.360 and 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 2014 c 42 s 6 & 2007 c 494 s 304;

(18) RCW 39.10.380 and 2013 c 222 s 14 & 2007 c 494 s 305;

(19) RCW 39.10.385 and 2013 c 222 s 15 & 2010 c 163 s 1;

(20) RCW 39.10.390 and 2014 c 42 s 7, 2013 c 222 s 16, & 2007 c 494 s 306;

(21) RCW 39.10.400 and 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 . . . s 7 (section 7 of this act), 2017 c 136 s 1, & 2016 c 52 s 1;

(24) RCW 39.10.430 and 2019 c . . . s 8 (section 8 of this act) & 2007 c 494 s 402;

(25) RCW 39.10.440 and 2019 c . . . s 9 (section 9 of this act), 2015 c 173 s 1, 2013 c 222 s 19, & 2007 c 494 s 403;

(26) RCW 39.10.450 and 2019 c . . . s 10 (section 10 of this act), 2012 c 102 s 2, & 2007 c 494 s 404;

(27) RCW 39.10.460 and 2012 c 102 s 3 & 2007 c 494 s 405;

(28) RCW 39.10.470 and 2019 c . . . s 11 (section 11 of this act), 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 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; and

(35) RCW 39.10.905 and 2007 c 494 s 513.

Passed by the House March 7, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 213

[Substitute House Bill 1302]

GAMBLING SELF-EXCLUSION PROGRAM

AN ACT Relating to gambling addiction; and amending RCW 9.46.071, 42.56.230, and 67.70.040.

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

Sec. 1. RCW 9.46.071 and 2005 c 369 s 9 are each amended to read as follows:

(1)(a) The legislature recognizes that some individuals in this state (~~are problem or pathological gamblers~~) have a gambling problem or 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 (~~pathological gamblers~~) gambling disorders. ((Therefore;))

(b) The Washington state gambling commission, the Washington horse racing commission, and the state lottery commission shall jointly develop problem gambling and gambling disorder informational signs (~~concerning problem and pathological gambling~~) which include a toll-free hotline number for individuals with a gambling problem (~~and pathological gamblers~~) or gambling disorder. The signs shall be placed in the establishments of gambling licensees, horse racing licensees, and lottery retailers. ((In addition;))

(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) Individuals and families impacted by a gambling problem 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) The program must allow persons to voluntarily exclude themselves from gambling at authorized gambling establishments that offer house-banked social card games;

(ii) 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) 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.

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) The commission must adopt rules establishing the self-exclusion program by June 30, 2021.

(e) 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) 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)(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 ((pathological)) gambling disorder. Any fee imposed or increased by the commission, for the purpose of funding these services, before July 1, 2005, ((shall have)) 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 (~~((of problem and pathological gambling))~~); and

(ii) The commission may increase fees payable by (~~((licenses [licensees]))~~) licensees under its jurisdiction for the purpose of funding the problem gambling and gambling disorder services authorized in this section (~~((for problem and pathological gamblers))~~).

Sec. 2. RCW 42.56.230 and 2018 c 109 s 16 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; or

(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.

(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 identicaid.

(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 identicaid 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;

(8) All information related to individual claims resolution structured 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.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in subsection (7)(c) and (d) of this section that is subject to public disclosure;

(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; ~~((and))~~

(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; and

(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.

Sec. 3. RCW 67.70.040 and 2006 c 290 s 3 are each amended to read as follows:

The commission shall have the power, and it shall be its duty:

(1) To adopt rules governing the establishment and operation of a state lottery as it deems necessary and desirable in order that such a lottery be initiated at the earliest feasible and practicable time, and in order that such lottery produce the maximum amount of net revenues for the state consonant with the dignity of the state and the general welfare of the people. Such rules shall include, but shall not be limited to, the following:

(a) The type of lottery to be conducted which may include the selling of tickets or shares, but such tickets or shares may not be sold over the internet. The use of electronic or mechanical devices or video terminals which allow for individual play against such devices or terminals shall be prohibited. An affirmative vote of sixty percent of both houses of the legislature is required before offering any game allowing or requiring a player to become eligible for a prize or to otherwise play any portion of the game by interacting with any device or terminal involving digital, video, or other electronic representations of any game of chance, including scratch tickets, pull-tabs, bingo, poker or other cards, dice, roulette, keno, or slot machines. Approval of the legislature shall be required before entering any agreement with other state lotteries to conduct shared games;

(b) The price, or prices, of tickets or shares in the lottery;

(c) The numbers and sizes of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares, except as limited by (a) of this subsection;

(e) The manner and time of payment of prizes to the holder of winning tickets or shares which, at the director's option, may be paid in lump sum amounts or installments over a period of years;

(f) The frequency of the drawings or selections of winning tickets or shares. Approval of the legislature is required before conducting any online game in which the drawing or selection of winning tickets occurs more frequently than once every twenty-four hours;

(g) Without limit as to number, the type or types of locations at which tickets or shares may be sold;

(h) The method to be used in selling tickets or shares, except as limited by (a) of this subsection;

(i) The licensing of agents to sell or distribute tickets or shares, except that a person under the age of eighteen shall not be licensed as an agent;

(j) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public;

(k) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among: (i) The payment of prizes to the holders of winning tickets or shares, which shall not be less than forty-five percent of the gross annual revenue from such lottery, (ii) transfers to the lottery administrative account created by RCW 67.70.260, and (iii) transfer to the state's general fund. Transfers to the state general fund shall be made in compliance with RCW 43.01.050;

(l) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

(2) To ensure that in each place authorized to sell lottery tickets or shares, on the back of the ticket or share, and in any advertising or promotion there shall be conspicuously displayed an estimate of the probability of purchasing a winning ticket.

(3) To amend, repeal, or supplement any such rules from time to time as it deems necessary or desirable.

(4) To advise and make recommendations to the director for the operation and administration of the lottery.

(5)(a) By June 30, 2021, to adopt rules to establish a program allowing a person to voluntarily exclude themselves from lottery activities including, but not limited to:

(i) Enrolling in a player loyalty or reward program operated or maintained by the lottery;

(ii) Entering or winning any second chance lottery promotion; and

(iii) Claiming or receiving from the lottery any monetary, promotional, or merchandise prize valued at more than six hundred dollars. Monetary prizes valued at more than six hundred dollars must be transferred to the problem gambling account created in RCW 41.05.751 after payment of any debts pursuant to RCW 67.70.255. Promotional and merchandise prizes valued at more than six hundred dollars must be retained by the lottery.

(b) 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 licensed retailer, its employees, or officers for any acts or omissions in processing or enforcing the requirements of the self-exclusion program.

(c) Any personal information collected, stored, or accessed under the self-exclusion program may not be disseminated for any purpose other than the administration of the self-exclusion program.

Passed by the House March 5, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 214

[Engrossed Substitute House Bill 1325]

PERSONAL DELIVERY DEVICES

AN ACT Relating to the regulation of personal delivery devices; amending RCW 46.04.320, 46.04.670, 46.61.050, 46.61.055, 46.61.060, 46.61.235, 46.61.240, 46.61.250, 46.61.261, 46.61.264, 46.61.269, 46.61.365, and 46.61.710; reenacting and amending RCW 81.80.010; adding a new section to chapter 46.61 RCW; adding a new chapter to Title 46 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) "Department" means the department of licensing.

(2) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.

(3) "Hazardous material" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103, and is required to be placarded under subpart F of 49 C.F.R. Part 172.

(4) "Personal delivery device" means an electrically powered device to which all of the following apply:

(a) The device is intended primarily to transport property on sidewalks and crosswalks;

(b) The device weighs less than one hundred twenty pounds, excluding any property being carried in the device;

(c) The device will operate at a maximum speed of six miles per hour; and

(d) The device is equipped with automated driving technology, including software and hardware, enabling the operation of the device, with the support and supervision of a remote personal delivery device operator.

(5)(a) "Personal delivery device operator" means an employee or agent of an eligible entity who has the capability to control or monitor the navigation and operation of a personal delivery device.

(b) "Personal delivery device operator" does not include:

(i) With respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service; or

(ii) A person who only arranges for and dispatches a personal delivery device for a delivery or other service.

NEW SECTION. Sec. 2. An eligible entity may operate a personal delivery device so long as all of the following requirements are met:

(1) The personal delivery device is operated in accordance with all ordinances, resolutions, rules and regulations established by the jurisdiction governing the rights-of-way within which the personal delivery device is operated;

(2) An eligible entity may operate a personal delivery device only upon:

(a) Crosswalks; and

(b)(i) Sidewalks; or

(ii) If a sidewalk is not provided or is not accessible, an area where a pedestrian is permitted to travel, subject to RCW 46.61.250, provided that the adjacent roadway has a speed limit of less than forty-five miles per hour;

(3) A personal delivery device operator is controlling or monitoring the navigation and operation of the personal delivery device;

(4) The eligible entity maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity;

(5) The eligible entity must report any incidents, resulting in personal injury or property damage that meets the accident reporting threshold for property damage under RCW 46.52.030(5), to the law enforcement agency of the local jurisdiction governing the right-of-way containing the sidewalk, crosswalk, or roadway where the incident occurred, within forty-eight hours of the incident;

(6) The eligible entity registers an agent located in Washington state for the purposes of addressing traffic infractions and incidents involving personal delivery devices operated by the eligible entity;

(7) The eligible entity submits a self-certification form to the department with the information required under section 3 of this act, both before operating a personal delivery device and on an annual basis thereafter;

(8) The personal delivery device is equipped with all of the following:

(a) A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device, a unique identification number for the device, and the name and contact information including a mailing address of the agent required to be registered under subsection (6) of this section;

(b) A braking system that enables the personal delivery device to come to a controlled stop; and

(c) If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible on all sides of the personal delivery device in clear weather from a distance of at least five hundred feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle; and

(9) A delivery device may not be operated in Washington until it has been added to the list in the self-certification and the annual registration fee has been paid.

NEW SECTION. Sec. 3. The department of licensing shall create a self-certification form for an eligible entity to submit prior to operating a personal delivery device and thereafter on an annual basis. Through the form, the department must obtain:

(1) The name and address of the eligible entity and its registered agent within Washington, including the registered agent's name, address, and driver's license number, and any other information the department may require;

(2) The name of the jurisdiction in which the personal delivery device will be operated;

(3) An acknowledgment by the eligible entity that: (a) Each personal delivery device will display a unique identification number and other information specified in section 2(8) of this act; and (b) the registered agent is responsible for any infraction committed by its personal delivery device;

(4) An affirmation by the eligible entity that it possesses insurance as required in section 2 of this act;

(5) A list of any incidents, as described in section 2(5) of this act, and any traffic infractions, as described in section 5 of this act, involving any personal delivery device operated by the eligible entity in Washington state in the previous year; and

(6) A list of each device identified by a unique identification number that the eligible entity intends to operate in the state during the year and payment of a fee of fifty dollars per personal delivery device listed. The fee must be deposited into the motor vehicle fund. The list must be updated and the fee paid prior to the eligible entity operating a device not listed in the annual self-certification.

NEW SECTION. Sec. 4. (1) A personal delivery device may not be operated to transport hazardous material, in a quantity and form that may pose an unreasonable risk to health, safety, or property when transported in commerce.

(2) A personal delivery device may not be operated to transport beer, wine, spirits, or other consumable alcohol.

NEW SECTION. Sec. 5. (1) A violation of this chapter, or of chapter 46.61 RCW by a personal delivery device, is a traffic infraction. A notice of infraction must be mailed to the registered agent listed on the personal delivery device within fourteen days of the violation.

(2) The registered agent of the eligible entity operating a personal delivery device is responsible for an infraction under RCW 46.63.030(1).

(3) Infractions committed by a personal delivery device are not part of the registered agent's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions issued under this section shall be processed in the same

manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). The amount of the fine issued for an infraction issued under this section shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction.

Sec. 6. RCW 46.04.320 and 2010 c 217 s 1 are each amended to read as follows:

(1) "Motor vehicle" means ~~((every))~~ a vehicle that is self-propelled ~~((and every))~~ or a vehicle that is propelled by electric power obtained from overhead trolley wires~~(s)~~ but not operated upon rails.

(2) "Motor vehicle" includes:

(a) A neighborhood electric vehicle as defined in RCW 46.04.357(~~("-Motor vehicle" includes))~~);

(b) A medium-speed electric vehicle as defined in RCW 46.04.295; and

(c) A golf cart for the purposes of chapter 46.61 RCW.

(3) "Motor vehicle" excludes:

(a) An electric personal assistive mobility device (~~((is not considered a motor vehicle-))~~);

(b) A power wheelchair (~~((is not considered a motor vehicle-))~~);

(c) A golf cart (~~((is not considered a motor vehicle))~~), except (~~for the purposes of chapter 46.61 RCW~~) as provided in subsection (2) of this section;

(d) A moped, for the purposes of chapter 46.70 RCW; and

(e) A personal delivery device as defined in section 1 of this act.

Sec. 7. RCW 46.04.670 and 2011 c 171 s 19 are each amended to read as follows:

(1) "Vehicle" ~~((includes every))~~ means a device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway~~(, including bicycles)~~.

(2) "Vehicle" ~~((does not include))~~ excludes:

(a) A power wheelchair~~(s)~~ or device~~(s)~~ other than a bicycle~~(s)~~ moved by human or animal power or used exclusively upon stationary rails or tracks(~~("-Mopeds are not considered vehicles or motor vehicles))~~);

(b) A moped, for the purposes of chapter 46.70 RCW(~~("-Bicycles are not considered vehicles))~~);

(c) A bicycle, for the purposes of chapter 46.12, 46.16A, or 46.70 RCW, or for RCW 82.12.045~~(-)~~;

(d) An electric personal assistive mobility device~~(s are not considered vehicles or motor vehicles))~~, for the purposes of chapter 46.12, 46.16A, 46.29, 46.37, or 46.70 RCW~~(-)~~;

(e) A golf cart (~~((is not considered a vehicle))~~), except for the purposes of chapter 46.61 RCW; and

(f) A personal delivery device as defined in section 1 of this act, except for the purposes of chapter 46.61 RCW.

NEW SECTION. Sec. 8. A new section is added to chapter 46.61 RCW to read as follows:

For the purposes of this chapter, "personal delivery device" has the same meaning as in section 1 of this act.

Sec. 9. RCW 46.61.050 and 1975 c 62 s 18 are each amended to read as follows:

(1) The driver of any vehicle, every bicyclist, and every pedestrian shall obey, and the operation of every personal delivery device shall follow, the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exception granted the driver of an authorized emergency vehicle in this chapter.

(2) No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible or visible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(3) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

Sec. 10. RCW 46.61.055 and 1993 c 153 s 2 are each amended to read as follows:

Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word or legend, and said lights shall indicate and apply to drivers of vehicles (~~and~~), pedestrians, and personal delivery devices, as follows:

(1) Green indication

(a) Vehicle operators facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Vehicle operators turning right or left shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators turning right or left shall also stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Vehicle operators facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection control area only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Vehicle operators shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators shall also stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(c) Unless otherwise directed by a pedestrian control signal, as provided in RCW 46.61.060 as now or hereafter amended, pedestrians or personal delivery devices facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication

(a) Vehicle operators facing a steady circular yellow or yellow arrow signal are thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. Vehicle operators shall stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Pedestrians or personal delivery devices facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 shall not enter the roadway.

(3) Steady red indication

(a) Vehicle operators facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection control area and shall remain standing until an indication to proceed is shown. However, the vehicle operators facing a steady circular red signal may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 as now or hereafter amended, pedestrians or personal delivery devices facing a steady circular red signal alone shall not enter the roadway.

(c) Vehicle operators facing a steady red arrow indication may not enter the intersection control area to make the movement indicated by such arrow, and unless entering the intersection control area to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, before entering a crosswalk on the near side of the intersection control area, or if none, then before entering the intersection control area and shall remain standing until an indication to make the movement indicated by such arrow is shown. However, the vehicle operators facing a steady red arrow indication may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way street or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(d) Unless otherwise directed by a pedestrian signal, pedestrians or personal delivery devices facing a steady red arrow signal indication shall not enter the roadway.

(4) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

Sec. 11. RCW 46.61.060 and 1993 c 153 s 3 are each amended to read as follows:

Whenever pedestrian control signals exhibiting the words "Walk" or the walking person symbol or "Don't Walk" or the hand symbol are operating, the signals shall indicate as follows:

(1) WALK or walking person symbol—Pedestrians or personal delivery devices facing such signal may cross the roadway in the direction of the signal. Vehicle operators shall stop for pedestrians who or personal delivery devices that are lawfully moving within the intersection control area on such signal as required by RCW 46.61.235(1).

(2) Steady or flashing DON'T WALK or hand symbol—Pedestrians or personal delivery devices facing such signal shall not enter the roadway. Vehicle operators shall stop for pedestrians who or personal delivery devices that have begun to cross the roadway before the display of either signal as required by RCW 46.61.235(1).

(3) Pedestrian control signals having the "Wait" legend in use on August 6, 1965, shall be deemed authorized signals and shall indicate the same as the "Don't Walk" legend. Whenever such pedestrian control signals are replaced the legend "Wait" shall be replaced by the legend "Don't Walk" or the hand symbol.

Sec. 12. RCW 46.61.235 and 2010 c 242 s 1 are each amended to read as follows:

(1) The operator of an approaching vehicle shall stop and remain stopped to allow a pedestrian ((~~or~~)), bicycle, or personal delivery device to cross the roadway within an unmarked or marked crosswalk when the pedestrian ((~~or~~)), bicycle, or personal delivery device is upon or within one lane of the half of the roadway upon which the vehicle is traveling or onto which it is turning. For purposes of this section "half of the roadway" means all traffic lanes carrying traffic in one direction of travel, and includes the entire width of a one-way roadway.

(2) No pedestrian ((~~or~~)), bicycle, or personal delivery device shall suddenly leave a curb or other place of safety and walk, run, or otherwise move into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Subsection (1) of this section does not apply under the conditions stated in RCW 46.61.240(2).

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian ((~~or~~)), bicycle, or personal delivery device to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(5)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

Sec. 13. RCW 46.61.240 and 1990 c 241 s 5 are each amended to read as follows:

(1) Every pedestrian or personal delivery device crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Where curb ramps exist at or adjacent to intersections or at marked crosswalks in other locations, ~~((disabled))~~ persons with disabilities or personal delivery devices may enter the roadway from the curb ramps and cross the roadway within or as closely as practicable to the crosswalk. All other pedestrian rights and duties as defined elsewhere in this chapter remain applicable.

(3) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(4) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(5) No pedestrian or personal delivery device shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians and personal delivery devices shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(6) No pedestrian or personal delivery device shall cross a roadway at an unmarked crosswalk where an official sign prohibits such crossing.

Sec. 14. RCW 46.61.250 and 1990 c 241 s 6 are each amended to read as follows:

(1) Where sidewalks are provided it is unlawful for any pedestrian to walk or otherwise move along and upon an adjacent roadway. Where sidewalks are provided but wheelchair access is not available, ~~((disabled))~~ persons with disabilities who require such access may walk or otherwise move along and upon an adjacent roadway until they reach an access point in the sidewalk.

(2) Where sidewalks are not provided, any pedestrian walking or otherwise moving along and upon a highway, and any personal delivery device moving along and upon a highway, shall, when practicable, walk or move only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction and upon meeting an oncoming vehicle shall move clear of the roadway.

Sec. 15. RCW 46.61.261 and 2010 c 242 s 3 are each amended to read as follows:

(1) The driver of a vehicle shall yield the right-of-way to any pedestrian ~~((or))~~, bicycle, or personal delivery device on a sidewalk. The rider of a bicycle shall yield the right-of-way to a pedestrian on a sidewalk or crosswalk. A

personal delivery device must yield the right-of-way to a pedestrian or a bicycle on a sidewalk or crosswalk.

(2)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

Sec. 16. RCW 46.61.264 and 1975 c 62 s 42 are each amended to read as follows:

(1) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of RCW 46.37.380 ~~((subsection))~~ (4) and visual signals meeting the requirements of RCW 46.37.190, or of a police vehicle meeting the requirements of RCW 46.61.035 ~~((subsection))~~ (3), every pedestrian and every personal delivery device shall yield the right-of-way to the authorized emergency vehicle.

(2) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian or any personal delivery device.

Sec. 17. RCW 46.61.269 and 1975 c 62 s 44 are each amended to read as follows:

(1) No pedestrian or personal delivery device shall enter or remain upon any bridge or approach thereto beyond a bridge signal gate, or barrier indicating a bridge is closed to through traffic, after a bridge operation signal indication has been given.

(2) No pedestrian or personal delivery device shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

Sec. 18. RCW 46.61.365 and 1965 ex.s. c 155 s 51 are each amended to read as follows:

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian or personal delivery device as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

Sec. 19. RCW 46.61.710 and 2018 c 60 s 5 are each amended to read as follows:

(1) No person shall operate a moped upon the highways of this state unless the moped has been assigned a moped registration number and displays a moped permit in accordance with RCW 46.16A.405(2).

(2) Notwithstanding any other provision of law, a moped may not be operated on a bicycle path or trail, bikeway, equestrian trail, or hiking or recreational trail.

(3) Operation of a moped, electric personal assistive mobility device, or motorized foot scooter on a fully controlled limited access highway is unlawful. Operation of a personal delivery device on any part of a highway other than a sidewalk or crosswalk is unlawful, except as provided in RCW 46.61.240(2) and 46.61.250(2). Operation of a moped on a sidewalk is unlawful. Operation of a motorized foot scooter or class 3 electric-assisted bicycle on a sidewalk is unlawful, unless there is no alternative for a motorized foot scooter or a class 3 electric-assisted bicycle to travel over a sidewalk as part of a bicycle or pedestrian path.

(4) Removal of any muffling device or pollution control device from a moped is unlawful.

(5) Subsections (1), (2), and (4) of this section do not apply to electric-assisted bicycles.

(6) Electric-assisted bicycles and motorized foot scooters may have access to highways of the state to the same extent as bicycles, subject to RCW 46.61.160.

(7) Subject to subsection (10) of this section, class 1 and class 2 electric-assisted bicycles and motorized foot scooters may be operated on a shared-use path or any part of a highway designated for the use of bicycles, but local jurisdictions or state agencies may restrict or otherwise limit the access of electric-assisted bicycles and motorized foot scooters, and local jurisdictions or state agencies may regulate the use of class 1 and class 2 electric-assisted bicycles and motorized foot scooters on facilities and properties under their jurisdiction and control. Local regulation of the operation of class 1 or class 2 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(8) Class 3 electric-assisted bicycles may be operated on facilities that are within or adjacent to a highway. Class 3 electric-assisted bicycles may not be operated on a shared-use path, except where local jurisdictions may allow the use of class 3 electric-assisted bicycles. State agencies or local jurisdictions may regulate the use of class 3 electric-assisted bicycles on facilities and properties under their jurisdiction and control. Local regulation of the operation of class 3 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(9) Except as otherwise provided in this section, an individual shall not operate an electric-assisted bicycle on a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A local authority or agency of this state having jurisdiction over a trail described in this subsection may allow the operation of an electric-assisted bicycle on that trail.

(10) Subsections (1) and (4) of this section do not apply to motorized foot scooters. Subsection (2) of this section applies to motorized foot scooters when the bicycle path, trail, bikeway, equestrian trail, or hiking or recreational trail

was built or is maintained with federal highway transportation funds. Additionally, any new trail or bicycle path or readily identifiable existing trail or bicycle path not built or maintained with federal highway transportation funds may be used by persons operating motorized foot scooters only when appropriately signed.

(11) A person operating an electric personal assistive mobility device (EPAMD) shall obey all speed limits and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing a pedestrian. Except for the limitations of this subsection, persons operating an EPAMD have all the rights and duties of a pedestrian.

(12) The use of an EPAMD may be regulated in the following circumstances:

(a) A municipality and the department of transportation may prohibit the operation of an EPAMD on public highways within their respective jurisdictions where the speed limit is greater than twenty-five miles per hour;

(b) A municipality may restrict the speed of an EPAMD in locations with congested pedestrian or nonmotorized traffic and where there is significant speed differential between pedestrians or nonmotorized traffic and EPAMD operators. The areas in this subsection must be designated by the city engineer or designee of the municipality. Municipalities shall not restrict the speed of an EPAMD in the entire community or in areas in which there is infrequent pedestrian traffic;

(c) A state agency or local government may regulate the operation of an EPAMD within the boundaries of any area used for recreation, open space, habitat, trails, or conservation purposes.

Sec. 20. RCW 81.80.010 and 2009 c 94 s 1 are each reenacted and amended to read as follows:

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

(1) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies. "Common carrier" does not include a personal delivery device or a personal delivery device operator as those terms are defined in section 1 of this act.

(2) "Contract carrier" includes all motor vehicle operators not included under the terms "common carrier" and "private carrier" as defined in this section, and further includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(3) "Common carrier" and "contract carrier" includes persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.

(4) "Exempt carrier" means any person operating a vehicle exempted under RCW 81.80.040.

(5) "Household goods carrier" means a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits,

offers, or enters into an agreement to transport household goods as defined by the commission.

(6) "Motor carrier" includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as defined in this section.

(7) "Motor vehicle" means any truck, trailer, semitrailer, tractor, dump truck which uses a hydraulic or mechanical device to dump or discharge its load, or any self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail, and express transported on the vehicles of auto transportation companies carrying passengers.

(8) "Person" includes an individual, firm, copartnership, corporation, company, or association or their lessees, trustees, or receivers.

(9) A "private carrier" is a person who transports by his or her own motor vehicle, with or without compensation, property which is owned or is being bought or sold by the person, or property where the person is the seller, purchaser, lessee, or bailee and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith.

(10) "Public highway" means every street, road, or highway in this state.

(11) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rail or tracks.

NEW SECTION. Sec. 21. Sections 1 through 5 of this act constitute a new chapter in Title 46 RCW.

NEW SECTION. Sec. 22. This act takes effect September 1, 2019.

Passed by the House April 18, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 215

[Engrossed Substitute House Bill 1329]

OFFICE OF PUBLIC GUARDIANSHIP--SUPPORTED DECISION-MAKING AND ESTATE ADMINISTRATION SERVICES

AN ACT Relating to methods of services provided by the office of public guardianship; and amending RCW 2.72.005, 2.72.010, 2.72.020, 2.72.030, and 11.28.120.

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

Sec. 1. RCW 2.72.005 and 2007 c 364 s 1 are each amended to read as follows:

(1) In establishing an office of public guardianship, the legislature intends to promote the availability of guardianship and alternate services that provide support for decision making for individuals who need them and for whom adequate services may otherwise be unavailable. The legislature reaffirms its commitment to treat liberty and autonomy as paramount values for all Washington residents and to authorize public guardianship only to the minimum extent necessary to provide for health or safety, or to manage financial affairs,

when the legal conditions for appointment of a guardian are met. It does not intend to alter those legal conditions or to expand judicial authority to determine that any individual is incapacitated.

(2) The legislature further recognizes that services that support decision making for people who have limited capacity can preserve individual liberty and provide effective support responsive to individual needs and wishes. The legislature also recognizes that these services may be less expensive than guardianship for the state, the courts, and for individuals with limited capacity and their families.

Sec. 2. RCW 2.72.010 and 2007 c 364 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) "Attorney-in-fact" means an agent authorized by an individual to act on his or her behalf pursuant to a power of attorney.

(2) "Office" means the office of public guardianship.

~~((2))~~ (3) "Public guardian" means an individual or entity providing public guardianship services.

~~((3))~~ (4) "Public guardianship services" means the services provided by a guardian or limited guardian appointed under chapters 11.88 and 11.92 RCW, who is compensated under a contract with the office of public guardianship.

~~((4))~~ (5) "Long-term care services" means services provided through the department of social and health services either in a hospital or skilled nursing facility, or in another setting under a home and community-based waiver authorized under 42 U.S.C. Sec. 1396n.

(6) "Representative payee" means the designated agent for a recipient of government benefits whom a government agency has determined to be incapable of managing his or her benefits.

(7) "Supported decision-making assistance" means support for an individual with diminished decision-making ability in making decisions affecting health or safety or to manage financial affairs. Assistance includes, without limitation, acting as a representative payee, an attorney-in-fact, a trustee, or a public guardian.

(8) "Trustee" means a person or organization named in a trust agreement to handle trust property for the benefit of one or more beneficiaries in accordance with the terms of the agreement.

Sec. 3. RCW 2.72.020 and 2007 c 364 s 3 are each amended to read as follows:

(1) There is created an office of public guardianship within the administrative office of the courts.

(2) The supreme court shall appoint a public guardianship administrator to establish and administer a public guardianship, supported decision-making assistance, and estate administration program in the office of public guardianship. The public guardianship administrator serves at the pleasure of the supreme court.

Sec. 4. RCW 2.72.030 and 2009 c 117 s 1 are each amended to read as follows:

The public guardianship administrator is authorized to establish and administer a public guardianship, supported decision-making assistance, and estate administration program as follows:

(1)(a) The office shall contract with public or private entities or individuals to provide:

(i) Public guardianship, supported decision-making assistance, and estate administration services to persons age eighteen or older whose income does not exceed two hundred percent of the federal poverty level determined annually by the United States department of health and human services or who are receiving long-term care services through the Washington state department of social and health services;

(ii) Supported decision-making services for a fee to persons age eighteen or older when there is no one else qualified who is willing and able to serve; and

(iii) Estate administration services for a fee to the estate of an individual who died at age eighteen or older, in circumstances where a service provider under contract with the office of public guardianship is granted letters under RCW 11.28.120(7).

(b) Neither the public guardianship administrator nor the office may act as public guardian or limited guardian or act in any other representative capacity for any individual.

~~((b))~~ (c) The ~~((office is exempt from RCW 39.29.008 because the))~~ primary function of the office is to contract for public guardianship, supported decision-making assistance, and estate administration services that are provided in a manner consistent with the requirements of this chapter. The office ~~((shall otherwise comply with chapter 39.29 RCW and))~~ is subject to audit by the state auditor.

~~((e))~~ (d) Public guardianship, supported decision-making assistance, and estate administration service contracts are dependent upon legislative appropriation. This chapter does not create an entitlement.

~~((d))~~ ~~The initial implementation of public guardianship services shall be on a pilot basis in a minimum of two geographical areas that include one urban area and one rural area. There may be one or several contracts in each area.)~~

(2) The office shall ~~((, within one year of the commencement of its operation,))~~ adopt and maintain eligibility criteria to enable it to serve individuals with the greatest need when the number of cases in which courts propose to appoint a public guardian exceeds the number of cases in which public guardianship and supported decision-making assistance services can be provided. In adopting such criteria, the office may consider factors including, but not limited to, the following: Whether an ~~((incapacitated))~~ individual with diminished decision-making ability is at significant risk of harm from abuse, exploitation, abandonment, neglect, or self-neglect; and whether an ~~((incapacitated person))~~ individual with diminished decision-making ability is in imminent danger of loss or significant reduction in public services that are necessary for the individual to live successfully in the most integrated and least restrictive environment that is appropriate in light of the individual's needs and values.

(3) The office shall adopt minimum standards of practice for public guardians and contract service providers providing public guardianship, supported decision-making assistance, and estate administration services. Any

public guardian providing such public guardianship services must be certified by the certified professional guardian board established by the supreme court.

(4) The office shall require a public guardian to visit each incapacitated person for which public guardianship services are provided no less than monthly to be eligible for compensation.

(5) The office shall not petition for appointment of a public guardian for any individual. It may develop a proposal for the legislature to make affordable legal assistance available to petition for guardianships.

~~(6) (The office shall not authorize payment for services for any entity that is serving more than twenty incapacitated persons per certified professional guardian.)~~ The office shall develop and adopt a case-weighting system designed to balance the increasing need for access to guardianship services, while effectively managing public guardian caseloads and providing appropriate supports for individuals on that caseload.

(a) The standard caseload limit for a contract service provider must be no more than twenty incapacitated persons per certified professional guardian. The office may authorize adjustments to the standard caseload limit on a case-by-case basis, and payment for services to a contract service provider that serves more than twenty incapacitated persons per professional guardian is subject to review by the office. In evaluating caseload size, the office shall consider the expected activities, time, and demands involved, as well as the available support for each case.

(b) Caseload limits must not exceed thirty-six cases. The office shall not authorize payment for services for any contract service provider that fails to comply with the standard caseload limit guidelines.

(c) The office shall develop case-weighting guidelines to include a process for adjusting caseload limits, relevant policies and procedures, and recommendations for changes in court rules which may be appropriate for the implementation of the system.

(d) By December 1, 2019, the office must submit to the legislature a report detailing the final case-weighting system and guidelines, and implementation progress and recommendations. The report must be made available to the public.

(e) The administrative office of the courts shall notify the superior courts of the policies contained in the final case-weighting system.

(7) The office shall monitor and oversee the use of state funding to ensure compliance with this chapter.

(8) The office shall collect uniform and consistent basic data elements regarding service delivery. This data shall be made available to the legislature and supreme court in a format that is not identifiable by individual incapacitated person to protect confidentiality.

~~(9) (The office shall report to the legislature on how services other than guardianship services, and in particular services that might reduce the need for guardianship services, might be provided under contract with the office by December 1, 2009. The services to be considered should include, but not be limited to, services provided under powers of attorney given by the individuals in need of the services.~~

~~(10))~~ The office shall require ((public guardianship)) contract service providers to seek reimbursement of fees from program clients who are receiving long-term care services through the department of social and health services to

the extent, and only to the extent, that such reimbursement may be paid, consistent with an order of the superior court, from income that would otherwise be required by the department to be paid toward the cost of the client's care. Fees reimbursed shall be remitted by the provider to the office unless a different disposition is directed by the public guardianship administrator.

(10) Fees may be collected from the estate when the decedant's income prior to death exceeded two hundred percent of the federal poverty level, determined annually by the United States department of health and human services, based on a fee schedule established by the office that must be published annually.

(11) The office shall require public guardianship providers to certify annually that for each individual served they have reviewed the need for continued public guardianship services and the appropriateness of limiting, or further limiting, the authority of the public guardian under the applicable guardianship order, and that where termination or modification of a guardianship order appears warranted, the superior court has been asked to take the corresponding action.

(12) The office shall adopt a process for receipt and consideration of and response to complaints against the office and contracted providers of public guardianship, supported decision-making assistance, and estate administration services. The process shall include investigation in cases in which investigation appears warranted in the judgment of the administrator.

~~(13) ((The office shall contract with the Washington state institute for public policy for a study. An initial report is due two years following July 22, 2007, and a second report by December 1, 2011. The study shall analyze costs and offsetting savings to the state from the delivery of public guardianship services.~~

(14)) The office shall develop standardized forms and reporting instruments that may include, but are not limited to, intake, initial assessment, guardianship care plan, decisional accounting, staff time logs, changes in condition or abilities of an incapacitated person, and values history. The office shall collect and analyze the data gathered from these reports.

~~((15))~~ (14) The office shall identify training needs for ~~((guardians))~~ service providers it contracts with, and shall make recommendations to the supreme court, the certified professional guardian board, and the legislature for improvements in ~~((guardianship))~~ training. The office may offer training to individuals providing services pursuant to this chapter ~~((or))~~, to individuals who, in the judgment of the administrator or the administrator's designee, are likely to provide such services in the future, to lay guardians, and to the family and friends of individuals subject to guardianship.

~~((16))~~ (15) The office shall establish a system for monitoring the performance of ~~((public guardians))~~ contract service providers, and office staff shall make in-home visits to a randomly selected sample of public guardianship and supported decision-making assistance clients. The office may conduct further monitoring, including in-home visits, as the administrator deems appropriate. For monitoring purposes, office staff shall have access to any information relating to a public guardianship, supported decision-making assistance, and estate administration client that is available to the guardian.

~~((17) During the first five years of its operations, the office shall issue annual reports of its activities.))~~

Sec. 5. RCW 11.28.120 and 2007 c 156 s 28 are each amended to read as follows:

Administration of an estate if the decedent died intestate or if the personal representative or representatives named in the will declined or were unable to serve shall be granted to some one or more of the persons hereinafter mentioned, and they shall be respectively entitled in the following order:

(1) The surviving spouse or state registered domestic partner, or such person as he or she may request to have appointed.

(2) The next of kin in the following order: (a) Child or children; (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e) nephews or nieces.

(3) The trustee named by the decedent in an inter vivos trust instrument, testamentary trustee named in the will, guardian of the person or estate of the decedent, or attorney-in-fact appointed by the decedent, if any such a fiduciary controlled or potentially controlled substantially all of the decedent's probate and nonprobate assets.

(4) One or more of the beneficiaries or transferees of the decedent's probate or nonprobate assets.

(5)(a) The director of revenue, or the director's designee, for those estates having property subject to the provisions of chapter 11.08 RCW; however, the director may waive this right.

(b) The secretary of the department of social and health services for those estates owing debts for long-term care services as defined in RCW 74.39A.008; however the secretary may waive this right.

(6) One or more of the principal creditors.

(7) If the persons so entitled shall fail for more than forty days after the death of the decedent to present a petition for letters of administration, or if it appears to the satisfaction of the court that there is no next of kin, as above specified eligible to appointment, or they waive their right, and there are no principal creditor or creditors, or such creditor or creditors waive their right, then the court may appoint a service provider under contract with the office of public guardianship under chapter 2.72 RCW or any suitable person to administer such estate.

Passed by the House March 8, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 216

[Substitute House Bill 1350]

ANTI-HARASSMENT PROTECTION ORDERS--DISTRICT AND MUNICIPAL COURT JURISDICTION

AN ACT Relating to jurisdiction of temporary protection orders; and amending RCW 10.14.150.

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

Sec. 1. RCW 10.14.150 and 2011 c 307 s 1 are each amended to read as follows:

(1) The district courts shall have original jurisdiction and cognizance of any civil actions and proceedings brought under this chapter, except the district court shall transfer such actions and proceedings to the superior court when it is shown that (a) the respondent to the petition is under eighteen years of age; (b) the action involves title or possession of real property; (c) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (d) the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

(2) Municipal courts may exercise jurisdiction and cognizance of any civil actions and proceedings brought under this chapter by adoption of local court rule, except the municipal court shall transfer such actions and proceedings to the superior court when it is shown that (a) the respondent to the petition is under eighteen years of age; (b) the action involves title or possession of real property; (c) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (d) the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

(3) The civil jurisdiction of district and municipal courts under this chapter is limited to the issuance and enforcement of temporary orders for protection in cases that require transfer to superior court under subsections (1) and (2) of this section. The district or municipal court shall transfer the case to superior court after the temporary order is entered.

(4) Superior courts shall have concurrent jurisdiction to receive transfer of antiharassment petitions in cases where a district or municipal court judge makes findings of fact and conclusions of law showing that meritorious reasons exist for the transfer.

(5) The municipal and district courts shall have jurisdiction and cognizance of any criminal actions brought under RCW 10.14.120 and 10.14.170.

Passed by the House March 4, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 217

[Engrossed House Bill 1354]

FOOD PRODUCT SCAN-DOWN ALLOWANCES--BUSINESS AND OCCUPATION TAX DEDUCTION

AN ACT Relating to providing that scan-down allowances on food and beverages intended for human and pet consumption are bona fide discounts for purposes of the business and occupation tax; adding a new section to chapter 82.04 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 82.04 RCW to read as follows:

(1) In computing tax under RCW 82.04.290(2), a seller may deduct from the measure of tax the amount of scan-down allowances.

(2) For purposes of this section, a provision that the seller must sell at a certain retail price or a specific price reduction does not constitute either:

(a) A service provided by the seller to the manufacturer or wholesaler; or

(b) A business activity directly or indirectly benefiting the manufacturer or wholesaler.

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

(a) "Product" means:

(i) Food and food ingredients other than prepared food, as those terms are defined in RCW 82.08.0293, whether or not exempt from sales tax under RCW 82.08.0293; and

(ii) Pet food and specialty pet food as defined in RCW 15.53.901.

(b) "Scan-down allowance" means a payment or credit offered to a seller by a manufacturer or wholesaler of products, where:

(i) The amount of the payment or credit is based on the quantity of the product to be sold at retail by the seller within a specified period of time;

(ii) The seller knew the terms of the offer before making the sales that generated the payment or credit from the manufacturer or wholesaler; and

(iii) The seller is not required to provide any services to the manufacturer or wholesaler or engage in any business activities directly or indirectly benefiting the manufacturer or wholesaler, in order to receive the payment or credit from the manufacturer or wholesaler.

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

Passed by the House March 28, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 218

[Substitute House Bill 1377]

AFFORDABLE HOUSING DEVELOPMENT ON RELIGIOUS ORGANIZATION PROPERTY

AN ACT Relating to affordable housing development on religious organization property; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70A RCW; and adding a new section to chapter 44.28 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.63 RCW to read as follows:

(1) A city planning under this chapter must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization provided that:

(a) The affordable housing development is set aside for or occupied exclusively by low-income households;

(b) The affordable housing development is part of a lease or other binding obligation that requires the development to be used exclusively for affordable housing purposes for at least fifty years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member of a low-income household based on race,

creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(2) A city may develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development.

(3) The religious organization developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(4) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(5) This section applies to any religious organization rehabilitating an existing affordable housing development.

(6) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which one hundred percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that may not exceed thirty percent of the income limit for the low-income housing unit;

(b) "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 affordable housing development is located; and

(c) "Religious organization" has the same meaning as in RCW 35.21.915.

NEW SECTION. Sec. 2. A new section is added to chapter 35A.63 RCW to read as follows:

(1) A city planning under this chapter must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization provided that:

(a) The affordable housing development is set aside for or occupied exclusively by low-income households;

(b) The affordable housing development is part of a lease or other binding obligation that requires the development to be used exclusively for affordable housing purposes for at least fifty years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member of a low-income household based on race, creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(2) A city may develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development.

(3) The religious organization developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(4) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(5) This section applies to any religious organization rehabilitating an existing affordable housing development.

(6) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which one hundred percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that may not exceed thirty percent of the income limit for the low-income housing unit;

(b) "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 affordable housing development is located; and

(c) "Religious organization" has the same meaning as in RCW 35A.21.360.

NEW SECTION. Sec. 3. A new section is added to chapter 36.70A RCW to read as follows:

(1) Any city or county fully planning under this chapter must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization provided that:

(a) The affordable housing development is set aside for or occupied exclusively by low-income households;

(b) The affordable housing development is part of a lease or other binding obligation that requires the development to be used exclusively for affordable housing purposes for at least fifty years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member of a low-income household based on race, creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(2) A city or county may develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development.

(3) An affordable housing development created by a religious institution within a city or county fully planning under RCW 36.70A.040 must be located within an urban growth area as defined in RCW 36.70A.110.

(4) The religious organization developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(5) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(6) This section applies to any religious organization rehabilitating an existing affordable housing development.

(7) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which one hundred percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that may not exceed thirty percent of the income limit for the low-income housing unit;

(b) "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 affordable housing development is located; and

(c) "Religious organization" has the same meaning as in RCW 36.01.290.

NEW SECTION. Sec. 4. A new section is added to chapter 44.28 RCW to read as follows:

The joint committee must review the efficacy of the increased density bonus incentive for affordable housing development located on property owned by a religious organization pursuant to this act and report its findings to the appropriate committees of the legislature by December 1, 2030. The review must include a recommendation on whether this incentive should be continued without change or should be amended or repealed.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 219

[House Bill 1380]

ASSAULT OF UTILITY EMPLOYEE--AGGRAVATING CIRCUMSTANCE

AN ACT Relating to providing an aggravating circumstance for assault against a utility worker; and amending RCW 9.94A.535.

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

Sec. 1. RCW 9.94A.535 and 2016 c 6 s 2 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be

appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.

(j) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

(k) The defendant was convicted of vehicular homicide, by the operation of a vehicle in a reckless manner and has committed no other previous serious traffic offenses as defined in RCW 9.94A.030, and the sentence is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or

fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

(bb) The current offense involved paying to view, over the internet in violation of RCW 9.68A.075, depictions of a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(cc) The offense was intentionally committed because the defendant perceived the victim to be homeless, as defined in RCW 9.94A.030.

(dd) The current offense involved a felony crime against persons, except for assault in the third degree pursuant to RCW 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's chamber, or any waiting area or corridor immediately adjacent to a courtroom, jury room, or judge's chamber. This subsection shall apply only: (i) During the times when a courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings; and (ii) if signage was posted in compliance with RCW 2.28.200 at the time of the offense.

(ee) During the commission of the current offense, the defendant was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater.

(ff) The current offense involved the assault of a utility employee of any publicly or privately owned utility company or agency, who is at the time of the act engaged in official duties, including: (i) The maintenance or repair of utility poles, lines, conduits, pipes, or other infrastructure; or (ii) connecting, disconnecting, or recording utility meters.

Passed by the House March 1, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 220

[Substitute House Bill 1415]

MEDICAL MARIJUANA AUTHORIZATION DATABASE--FUNDING

AN ACT Relating to funding the medical marijuana authorization database; amending RCW 43.70.320 and 69.51A.230; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 43.70.320 and 2017 c 108 s 7 are each amended to read as follows:

(1) There is created in the state treasury an account to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, compact privileges, or examinations and the civil penalties assessed and collected by the department under RCW 18.130.190 shall be forwarded to the state treasurer who shall credit such moneys to the health professions account.

(2) All expenses incurred in carrying out the health professions licensing activities of the department (~~(and implementing and administering the medical marijuana authorization database established in RCW 69.51A.230)~~) shall be paid from the account as authorized by legislative appropriation, except as provided in subsections (4) and (5) of this section. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(3) The secretary shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees.

(4) The fees received by the department from applicants for compact privilege under RCW 18.74.500 must be used for the purpose of meeting financial obligations imposed on the state as a result of this state's participation in the physical therapy licensure compact.

(5) The secretary shall, at the request of a board or commission as applicable, spend unappropriated funds in the health professions account that are allocated to the requesting board or commission to meet unanticipated costs of that board or commission when revenues exceed more than fifteen percent over the department's estimated six-year spending projections for the requesting board or commission. Unanticipated costs shall be limited to spending as authorized in subsection (3) of this section for anticipated costs.

Sec. 2. RCW 69.51A.230 and 2015 c 70 s 21 are each amended to read as follows:

(1) The department must contract with an entity to create, administer, and maintain a secure and confidential medical marijuana authorization database that, beginning July 1, 2016, allows:

(a) A marijuana retailer with a medical marijuana endorsement to add a qualifying patient or designated provider and include the amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(b) Persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care for their patients;

(c) A qualifying patient or designated provider to request and receive his or her own health care information or information on any person or entity that has queried their name or information;

(d) Appropriate local, state, tribal, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation of suspected marijuana-related activity that may be illegal under Washington state law to confirm the validity of the recognition card of a qualifying patient or designated provider;

(e) A marijuana retailer holding a medical marijuana endorsement to confirm the validity of the recognition card of a qualifying patient or designated provider;

(f) The department of revenue to verify tax exemptions under chapters 82.08 and 82.12 RCW;

(g) The department and the health care professional's disciplining authorities to monitor authorizations and ensure compliance with this chapter and chapter 18.130 RCW by their licensees; and

(h) Authorizations to expire six months or one year after entry into the medical marijuana authorization database, depending on whether the authorization is for a minor or an adult.

(2) A qualifying patient and his or her designated provider, if any, may be placed in the medical marijuana authorization database at a marijuana retailer with a medical marijuana endorsement. After a qualifying patient or designated provider is placed in the medical marijuana authorization database, he or she must be provided with a recognition card that contains identifiers required in subsection (3) of this section.

(3) The recognition card requirements must be developed by the department in rule and include:

(a) A randomly generated and unique identifying number;

(b) For designated providers, the unique identifying number of the qualifying patient whom the provider is assisting;

(c) A photograph of the qualifying patient's or designated provider's face taken by an employee of the marijuana retailer with a medical marijuana endorsement at the same time that the qualifying patient or designated provider is being placed in the medical marijuana authorization database in accordance with rules adopted by the department;

(d) The amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(e) The effective date and expiration date of the recognition card;

(f) The name of the health care professional who authorized the qualifying patient or designated provider; and

(g) For the recognition card, additional security features as necessary to ensure its validity.

(4) For qualifying patients who are eighteen years of age or older and their designated providers, recognition cards are valid for one year from the date the health care professional issued the authorization. For qualifying patients who are under the age of eighteen and their designated providers, recognition cards are valid for six months from the date the health care professional issued the authorization. Qualifying patients may not be reentered into the medical

marijuana authorization database until they have been reexamined by a health care professional and determined to meet the definition of qualifying patient. After reexamination, a marijuana retailer with a medical marijuana endorsement must reenter the qualifying patient or designated provider into the medical marijuana authorization database and a new recognition card will then be issued in accordance with department rules.

(5) If a recognition card is lost or stolen, a marijuana retailer with a medical marijuana endorsement, in conjunction with the database administrator, may issue a new card that will be valid for six months to one year if the patient is reexamined by a health care professional and determined to meet the definition of qualifying patient and depending on whether the patient is under the age of eighteen or eighteen years of age or older as provided in subsection (4) of this section. If a reexamination is not performed, the expiration date of the replacement recognition card must be the same as the lost or stolen recognition card.

(6) The database administrator must remove qualifying patients and designated providers from the medical marijuana authorization database upon expiration of the recognition card. Qualifying patients and designated providers may request to remove themselves from the medical marijuana authorization database before expiration of a recognition card and health care professionals may request to remove qualifying patients and designated providers from the medical marijuana authorization database if the patient or provider no longer qualifies for the medical use of marijuana. The database administrator must retain database records for at least five calendar years to permit the state liquor and cannabis board and the department of revenue to verify eligibility for tax exemptions.

(7) During development of the medical marijuana authorization database, the database administrator must consult with the department, stakeholders, and persons with relevant expertise to include, but not be limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab or a certified cybersecurity firm, vendor, or service.

(8) The medical marijuana authorization database must meet the following requirements:

(a) Any personally identifiable information included in the database must be nonreversible, pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the database must not be susceptible to linkage by use of data external to the database;

(c) The database must incorporate current best differential privacy practices, allowing for maximum accuracy of database queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The database must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(9)(a) Personally identifiable information of qualifying patients and designated providers included in the medical marijuana authorization database is

confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.

(b) Information contained in the medical marijuana authorization database may be released in aggregate form, with all personally ~~((identifying [identifiable]))~~ identifiable information redacted, for the purpose of statistical analysis and oversight of agency performance and actions.

(c) Information contained in the medical marijuana authorization database shall not be shared with the federal government or its agents unless the particular ~~(([qualifying]))~~ qualifying patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW.

(10)~~((a))~~) The department must charge a one dollar fee for each initial and renewal recognition card issued by a marijuana retailer with a medical marijuana endorsement. The marijuana retailer with a medical marijuana endorsement shall collect the fee from the qualifying patient or designated provider at the time that he or she is entered into the database and issued a recognition card. The department shall establish a schedule for marijuana retailers with a medical marijuana endorsement to remit the fees collected. Fees collected under this subsection shall be deposited into the ~~((health professions))~~ dedicated marijuana account created under RCW ~~((43.70.320))~~ 69.50.530.

~~((b) By November 1, 2016, the department shall report to the governor and the fiscal committees of both the house of representatives and the senate regarding the cost of implementation and administration of the medical marijuana authorization database. The report must specify amounts from the health professions account used to finance the establishment and administration of the medical marijuana authorization database as well as estimates of the continuing costs associated with operating the medical marijuana [authorization] database. The report must also provide initial enrollment figures in the medical marijuana authorization database and estimates of expected future enrollment.))~~

(11) If the database administrator fails to comply with this section, the department may cancel any contracts with the database administrator and contract with another database administrator to continue administration of the database. A database administrator who fails to comply with this section is subject to a fine of up to five thousand dollars in addition to any penalties established in the contract. Fines collected under this section must be deposited into the health professions account created under RCW 43.70.320.

(12) The department may adopt rules to implement this section.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

Passed by the House March 8, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 221

[Second Substitute House Bill 1424]

HIGH SCHOOL CAREER AND TECHNICAL EDUCATION COURSE EQUIVALENCIES--
ACCESS

AN ACT Relating to increasing access to state career and technical course equivalencies; amending RCW 28A.230.010; reenacting and amending RCW 28A.230.097; and creating a new section.

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

Sec. 1. RCW 28A.230.010 and 2018 c 177 s 302 are each amended to read as follows:

(1) School district boards of directors shall identify and offer courses with content that meet or exceed: (a) The basic education skills identified in RCW 28A.150.210; (b) the graduation requirements under RCW 28A.230.090; (c) the courses required to meet the minimum college entrance requirements under RCW 28A.230.130; and (d) the course options for career development under RCW 28A.230.130. Such courses may be applied or theoretical, academic, or vocational.

(2) ~~Until September 1, 2021, school district boards of directors must provide high school students with the opportunity to access at least one career and technical education course that is considered ((equivalent to a mathematics course or at least one career and technical education course that is considered equivalent to a science course))~~ a statewide equivalency course as determined by the office of the superintendent of public instruction ((#)) under RCW 28A.700.070.

(3) 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.

(4) Students may access ~~((such))~~ statewide equivalency courses at high schools, interdistrict cooperatives, skill centers or branch or satellite skill centers, or through online learning or applicable running start vocational courses.

~~(((3)a) Until January 1, 2019, school district boards of directors of school districts with fewer than two thousand students may apply to the state board of education for a waiver from the provisions of subsection (2) of this section.~~

~~((b))~~ (5) On and after January 1, 2019, school district boards of directors of school districts with fewer than two thousand students may apply to the superintendent of public instruction for a waiver from the provisions of subsections (2) and (3) of this section under RCW 28A.230.015.

Sec. 2. RCW 28A.230.097 and 2018 c 177 s 301 and 2018 c 73 s 1 are each reenacted and 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. (~~Beginning no later than the 2015-16 school year~~)

(2) Until September 1, 2021, a school district board of directors must, at a minimum, grant academic course equivalency (~~(in mathematics or science for a)~~) 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 (~~(, but is not limited to the courses on the list)~~).

(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.

~~((2))~~ (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.

(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.

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 222

[Engrossed Substitute House Bill 1428]

ELECTRICITY PRODUCT ATTRIBUTES--DISCLOSURE

AN ACT Relating to the disclosure of attributes of electricity products; amending RCW 19.29A.050, 19.29A.060, and 19.29A.080; amending 2000 c 213 s 1 (uncodified); reenacting and amending RCW 19.29A.010; adding new sections to chapter 19.29A RCW; and repealing RCW 19.29A.070.

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

Sec. 1. 2000 c 213 s 1 (uncodified) is amended to read as follows:

(1) Consumer disclosure ensures that retail electric consumers purchasing electric energy receive basic information about the characteristics associated with their electric product in a form that facilitates consumer understanding of retail electric energy service and the development of new products responsive to consumer preferences.

(2) The legislature finds and declares that there is a need for reliable, accurate, and timely information regarding fuel source((s)) that is consistently collected, for all electricity products offered for retail sale in Washington.

(3) The desirability and feasibility of such disclosure has been clearly established in nutrition labeling, uniform food pricing, truth-in-lending, and other consumer information programs.

(4) The legislature intends to establish a consumer disclosure standard under which retail suppliers in Washington disclose information on the fuel mix of the electricity products they sell. Fundamental to disclosure is a label that promotes consistency in content and format, that is accurate, reliable, and simple to understand, and that allows verification of the accuracy of information reported.

(5) To ensure that consumer information is verifiable and accurate, certain characteristics of electricity generation must be tracked and compared with information provided to consumers.

(6) The legislature recognizes that the generation, transmission, and delivery of electricity occurs through a complex network of interconnected facilities and contractual arrangements. As a result, the legislature intends that the fuel characteristics disclosed under this chapter represent reasonable approximations that are suitable only for informational or disclosure purposes.

(7) The disclosures required by this chapter reflect the characteristics of electricity products offered by retail suppliers to customers. Nothing in this chapter prohibits a retail supplier from communicating to its customers, owners, taxpayers, or the general public information regarding its investment in or ownership of renewable or nonrenewable generating facilities, its production of electricity, or its wholesale market activities, as long as the information is provided separately from the electricity product content label.

Sec. 2. RCW 19.29A.010 and 2015 c 285 s 1 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) "~~Biomass generation~~" (~~means electricity derived from burning solid organic fuels from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper chrome arsenic~~) has the same meaning as "biomass energy" defined in RCW 19.285.030.

(2) "~~Bonneville power administration system mix~~" means a generation mix sold by the Bonneville power administration that is net of any resource specific sales (~~and that is net of any electricity sold to direct service industrial customers, as defined in section 3(8) of the Pacific Northwest electric power planning and conservation act (16 U.S.C. Sec. 839(a)(8))~~).

(3) ("~~Coal generation~~" means the electricity produced by a generating facility that burns coal as the primary fuel source.

~~(4))~~ "Commission" means the utilities and transportation commission.

~~((5))~~ (4) "Conservation" means an increase in efficiency in the use of energy use that yields a decrease in energy consumption while providing the same or higher levels of service. Conservation includes low-income weatherization programs.

~~((6))~~ (5) "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.

~~((7))~~ (6) "Declared resource" means an electricity source specifically identified by a retail supplier to serve retail electric customers. A declared resource includes a stated quantity of electricity tied directly to a specified generation facility or set of facilities either through ownership or contract purchase, or a contractual right to a stated quantity of electricity from a specified generation facility or set of facilities.

~~((8))~~ (7) "Department" means the department of commerce.

~~((9))~~ (8) "Electric meters in service" means those meters that record in at least nine of twelve calendar months in any calendar year not less than two hundred fifty kilowatt-hours per month.

~~((10))~~ (9) "Electric utility" means a consumer-owned or investor-owned utility as defined in this section.

~~((11))~~ (10) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

~~((12))~~ (11) "Electricity information coordinator" means the organization selected by the department under RCW 19.29A.080 to: (a) Compile generation data in the Northwest power pool by generating project and by resource category; (b) compare the quantity of electricity from declared resources reported by retail suppliers with available generation from such resources; (c) calculate the net system power mix; and (d) coordinate with other comparable organizations in the western interconnection.

~~((13))~~ (11) "Electricity product" means the electrical energy produced by a generating facility or facilities that a retail supplier sells or offers to sell to retail electric customers in the state of Washington, provided that nothing in this title shall be construed to mean that electricity is a good or product for the purposes of Title 62A RCW, or any other purpose. It does not include electrical energy generated on-site at a retail electric customer's premises.

~~((14))~~ (12) "Electricity product content label" means information presented in a uniform format by a retail supplier to its retail customers and disclosing the information required in RCW 19.29A.060 about the characteristics of an electricity product.

(13) "Fuel attribute" means the characteristic of electricity determined by the fuel used in the generation of that electricity. For a renewable resource, the fuel attribute is included in its nonpower attributes.

(14) "Fuel mix" means the ~~((actual or imputed))~~ sources of electricity sold to retail electric customers, expressed in terms of percentage contribution by resource category. The total fuel mix included in each disclosure shall total one hundred percent.

~~(15) ("Geothermal generation" means electricity derived from thermal energy naturally produced within the earth.~~

~~(16))~~ "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.

~~((17) "High efficiency cogeneration" means electricity produced by equipment, such as heat or steam used for industrial, commercial, heating, or cooling purposes, that meets the federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.~~

~~(18) "Hydroelectric generation" means a power source created when water flows from a higher elevation to a lower elevation and the flow is converted to electricity in one or more generators at a single facility.~~

~~(19))~~ (16) "Investor-owned utility" means a company owned by investors that meets the definition of RCW 80.04.010 and is engaged in distributing electricity to ~~((more than))~~ one or more retail electric customers in the state.

~~((20) "Landfill gas generation" means electricity produced by a generating facility that uses waste gases produced by the decomposition of organic materials in landfills.~~

~~(21) "Natural gas generation" means electricity produced by a generating facility that burns natural gas as the primary fuel source.~~

~~(22) "Net system power mix" means the fuel mix in the Northwest power pool, net of: (a) Any declared resources in the Northwest power pool identified by in-state retail suppliers or out-of-state entities that offer electricity for sale to retail electric customers; (b) any electricity sold by the Bonneville power administration to direct service industrial customers; and (c) any resource specific sales made by the Bonneville power administration.~~

~~(23) "Northwest power pool" means the generating resources included in the United States portion of the Northwest power pool area as defined by the western systems coordinating council.~~

~~(24) "Oil generation" means electricity produced by a generating facility that burns oil as the primary fuel source.~~

~~(25))~~ (17) "Nonpower attributes" has the same meaning as defined in RCW 19.285.030.

~~(18)~~ "Private customer information" includes a retail electric customer's name, address, telephone number, and other personally identifying information.

~~((26))~~ (19) "Proprietary customer information" means: (a) Information that relates to the source, technical configuration, destination, and amount of electricity used by a retail electric customer, a retail electric customer's payment history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

~~((27))~~ (20) "Renewable energy certificate" means a tradable certificate of proof of one megawatt-hour of electricity from 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 certificate tracking system specified by the department.

~~(21)~~ "Renewable resource(s)" ~~((means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e)~~

~~landfill gas; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic))~~ has the same meaning as defined in RCW 19.285.030.

~~((28))~~ (22) "Resale" means the purchase and subsequent sale of electricity for profit, but does not include the purchase and the subsequent sale of electricity at the same rate at which the electricity was purchased.

~~((29))~~ (23) "Retail electric customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

~~((30))~~ (24) "Retail supplier" means an electric utility that offers an electricity product for sale to retail electric customers in the state.

~~((31))~~ (25) "Small utility" means any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line.

~~((32))~~ "Solar generation" means electricity derived from radiation from the sun that is directly or indirectly converted to electrical energy.

~~((33))~~ (26) "Source and disposition report" means the report required in section 5 of this act.

(27) "State" means the state of Washington.

~~((34))~~ "Waste incineration generation" means electricity derived from burning solid or liquid wastes from businesses, households, municipalities, or waste treatment operations.

~~((35))~~ "Wind generation" means electricity created by movement of air that is converted to electrical energy.)

(28) "Unspecified source" means an electricity source for which the fuel attribute is unknown or has been separated from the energy.

Sec. 3. RCW 19.29A.050 and 2000 c 213 s 3 are each amended to read as follows:

(1) ~~((Beginning in 2001,))~~ Each retail supplier shall provide to its existing and new retail electric customers its annual fuel mix information by generation category as required in RCW 19.29A.060.

(2) Disclosures required under subsection (1) of this section shall be provided through ~~((a disclosure))~~ an electricity product content label presented in a ((standardized)) uniform format ((as required in RCW 19.29A.060(7))).

(3) Except as provided in subsection ~~((5))~~ (4) of this section, each retail supplier shall provide the ~~((disclosure))~~ electricity product content label:

(a) To each ~~((of its))~~ new retail electric customers at the time service is established;

(b) To ~~((all of its))~~ each existing retail electric customer~~((s)), ((as a bill insert or other))~~ delivered with the customer's billing statement or as a separately mailed publication, not less than ((semiannually)) annually; ((and))

(c) On the retail supplier's publicly accessible web site; and

(d) As part of any marketing material, in electronic, paper, written, or other media format, that is used primarily to promote the sale of any specific electricity product being advertised, contracted for, or offered for sale to current or prospective retail electric customers. For the purposes of this subsection, an electric product does not include conservation programs, equipment or materials, or equipment or materials related to transportation electrification.

(4) ~~((In addition to the disclosure requirements under subsection (3) of this section, each retail supplier shall provide to each electric customer it serves, at least two additional times per year, a publication that contains either:~~

- ~~(a) The disclosure label;~~
- ~~(b) A customer service phone number to request a disclosure label; or~~
- ~~(c) A reference to an electronic form of the disclosure label.~~

(5) Small utilities and mutual light and power companies shall provide the disclosure label not less than annually through a publication that is distributed to all their retail electric customers, and have disclosure label information available in their main business office)) Each small utility and mutual light and power company shall provide the electricity product content label not less than annually through a publication that is distributed to all its retail electric customers, publicly display the electricity product content label at its main business office, and provide the electricity product content label on its publicly accessible web site. If a small utility or mutual company engages in marketing a specific electric product new to that utility it shall provide the ~~((disclosure))~~ electricity product content label described in subsection (3)~~((c))~~ (d) of this section.

Sec. 4. RCW 19.29A.060 and 2000 c 213 s 4 are each amended to read as follows:

(1) Each retail supplier ~~((shall disclose the fuel mix of each electricity product it offers to retail electric customers as follows:~~

~~(a) For an electricity product comprised entirely of declared resources, a retail supplier shall disclose the fuel mix for the electricity product based on the quantity of electric generation from those declared resources for the previous calendar year and any adjustment, if taken, available under subsection (6) of this section.~~

~~(b) For an electricity product comprised of no declared resources, a retail supplier shall report the fuel mix for the electricity product as the fuel mix of net system power for the previous calendar year, as determined by the electricity information coordinator under RCW 19.29A.080.~~

~~(c) For an electricity product comprised of a combination of declared resources and the net system power, a retail supplier shall disclose the fuel mix for the electricity product as a weighted average of the megawatt hours from declared resources and the megawatt hours from the net system power mix for the previous calendar year according to the proportion of declared resources and net system power contained in the electricity product)) must disclose to its customers the fuel characteristics of each electricity product it offers to retail electric customers using information consistent with the retail supplier's source and disposition report.~~

(2) The fuel characteristics disclosures required by this section ~~((shall))~~ must identify for each electricity product the percentage of the total electricity product sold by a retail supplier during the previous calendar year from each of the following categories, using a uniform format:

- (a) Coal ~~((generation))~~;
- (b) Hydroelectric ~~((generation))~~;
- (c) Natural gas ~~((generation))~~;
- (d) Nuclear ~~((generation))~~; ~~((and))~~
- (e) Petroleum;

(f) Solar;

(g) Wind;

(h) Other generation, except that when a component of the other generation category meets or exceeds two percent of the total electricity product sold by a retail supplier during the previous calendar year, the retail supplier shall identify the component or components and display the fuel mix percentages for these component sources (~~(, which may include, but are not limited to: (i) Biomass generation; (ii) geothermal generation; (iii) landfill gas generation; (iv) oil generation; (v) solar generation; (vi) waste incineration; or (vii) wind generation)~~). A retail supplier may voluntarily identify any component or components within the other generation category that comprises two percent or less of annual sales; and

(i) Unspecified sources.

~~(3) ((Retail suppliers may separately report a subcategory of natural gas generation to identify high efficiency cogeneration.~~

~~(4) Except as provided in subsection (3) of this section,)) If the percentage amount of unspecified sources identified in subsection (2) of this section exceeds two percent for an electricity product, the retail supplier must include on the label a general description of unspecified sources and an explanation of why some power sources are unknown to the retail supplier.~~

~~(4) A retail supplier ((~~cannot~~) may not include in the ((~~disclosure~~)) electricity product content label any environmental quality or environmental impact qualifier, other than those permitted or required by this chapter, related to any of the generation categories disclosed.~~

(5) For the portion of an electricity product purchased from the Bonneville power administration, a retail supplier(s) may ((~~disclose~~)) incorporate the Bonneville power administration system mix in its disclosure.

~~(6) ((A retail supplier may adjust its reported fuel mix for known changes in its declared resources for the current year based on any changes in its sources of electricity supply from either generation or contracts. If a retail supplier changes its fuel mix during a calendar year, it shall report those changes to the electricity information coordinator.~~

~~(7) Disclosure of the fuel mix information required in this section shall be made in the following uniform format: A tabular format with two columns, where the first column shall alphabetically list each category and the second column shall display the corresponding percentage of the total that each category represents. The percentage shall be reported as a numeric value rounded to the nearest one percent. The percentages listed for the categories identified must sum to one hundred percent with the table displaying such a total.)) A retail supplier may include with the electricity product content label additional information concerning the quantity of renewable energy certificates, if not otherwise included in the retail supplier's declared resources, that are retired for compliance with RCW 19.285.040(2) in the reporting year.~~

NEW SECTION. Sec. 5. (1) Each retail supplier must report to the department each year, based on actual and verified activity in the prior year, the following information on its sources and uses of electricity in Washington:

(a) Electricity delivered to retail electric customers;

(b) Purchases or receipts of electricity from declared resources used to serve retail electric customers, by generating facility and fuel type; and

(c) Purchases or receipts of electricity from unspecified sources used to serve retail electric customers.

(2) The following requirements and limitations apply to the reporting of declared resources:

(a) A retail supplier must report an electricity purchase or receipt as a declared resource if the retail supplier was the direct or indirect owner of the generating facility or acquired the electricity in a transaction, supported by an auditable contract trail, in which the buyer and seller specified the source or set of sources of the electricity.

(b) A retail supplier may assign declared resources and unspecified resources to its retail service for purposes of this section using reasonable methods consistent with its business practices. A retail supplier must identify any change in method from the prior year in its report to the department.

(c) A retail supplier may not report a declared resource as a renewable resource if there exists a renewable energy certificate or other instrument representing the nonpower attributes of the electricity and the retail supplier does not own the renewable energy certificate or instrument.

(d) For an electricity product that is an optional product complying with RCW 19.29A.090, a retail supplier may report as a declared resource any combination of renewable energy certificates and electricity that meets the requirements of RCW 19.29A.090.

(3) Each retail supplier must report as an unspecified source any electricity source that was acquired in a transaction where the fuel attribute was not specified by the seller or provider or was not included in the transaction.

(4) A retail supplier that offers more than one electricity product must report the required source information separately for each product. Individual retail customer rate schedules do not constitute separate electricity products unless electricity sources are different.

(5) Each retail supplier must report the information required by this section as annual totals in megawatt-hours.

(6) The department must determine fuel mix percentages for each retail supplier based on the information provided in source and disposition reports. Each retail supplier's fuel mix percentages must reflect, to the extent possible, the declared resources reported by that retail supplier.

NEW SECTION. Sec. 6. (1) Any renewable energy certificate included in the source and disposition report must be created and retired within the certificate tracking system approved by the department and must represent renewable generation of a generating facility located in the region of the tracking system.

(2) A renewable energy certificate retired for any of the following purposes may not be included in the source and disposition report:

(a) Voluntary renewable energy programs, except where the electricity product is an optional product complying with RCW 19.29A.090;

(b) Compliance obligations not related to the provision of electricity service to retail customers in Washington; and

(c) Any other purpose established by rule by the department.

(3) A retail supplier must retire any renewable energy certificates included in its source and disposition report within one year after submitting its report.

NEW SECTION. Sec. 7. The department must develop and publish an estimate of the fuel characteristics of the generation sources reasonably available to serve Washington customers and not included as a declared resource of any retail supplier. The department may include or exclude any electricity source as it deems reasonable to accurately represent the characteristics of residual electricity supplies used by retail suppliers in Washington. The department must make available documentation of the inputs and calculations used in making the estimate.

Sec. 8. RCW 19.29A.080 and 2000 c 213 s 6 are each amended to read as follows:

(1) ~~((For the purpose of selecting the electricity information coordinator, the department shall form a work group of interested parties. The department shall invite interested parties, including, but not limited to, representatives from investor owned utilities, consumer owned utilities, the commission, the attorney general's office, consumer advocacy groups, and the environmental community to participate in the work group. In the event an appropriate regional entity is not selected by November 1, 2000, the department shall serve as the electricity information coordinator after notifying the committees of the senate and house of representatives with jurisdiction over energy matters))~~ The department may adopt administrative rules under chapter 34.05 RCW to implement the provisions of this chapter.

(2) The department may receive any lawful gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the department in implementing this section, and may spend such gifts, grants, or endowments for the purposes of implementing this section.

(3) ~~((As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to compile the following information:~~

(a) ~~Actual generation by fuel mix in the Northwest power pool for the prior calendar year, expressed in megawatt hours. This data will be compiled as it becomes available.~~

(b) ~~Adjustments to the actual generation for the prior calendar year that are known and provided to the electricity information coordinator by the end of January of the current calendar year to reflect known changes in declared resources for the current year and changes due to interconnection of new generating resources or decommissioning or sale of existing resources or contracts. These adjustments shall include supporting documentation.~~

(c) ~~The amount of electricity from declared resources that retail suppliers will identify in their fuel mix disclosures during the current calendar year. Retail suppliers shall make this data available by the end of January each year))~~ The department must regularly seek input from retail providers, consumers, environmental advocates, the Bonneville power administration, other state disclosure programs, and other stakeholders regarding potential improvements to the disclosure program established by this act.

(4) ~~((Retail suppliers shall make available))~~ Each retail supplier must make available to the department upon request the following information to support the ownership or contractual rights to declared resources:

(a) Documentation of ownership of declared resources by retail suppliers; or

(b) Documentation of contractual rights by retail suppliers to a stated quantity of electricity from a specific generating facility.

~~((If the documentation referred to in either (a) or (b) of this subsection is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.~~

~~(5) If the documentation referred to in either subsection (4)(a) or (b) of this section is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.~~

~~(6) As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to:~~

~~(a) Coordinate with comparable entities or organizations in the western interconnection;~~

~~(b) On or before May 1st of each year, or as soon thereafter as practicable once the data in subsection (3)(a) of this section is available, calculate and make available the net system power mix as follows:~~

~~(i) The actual Northwest power pool generation for the prior calendar year;~~

~~(ii) Plus any adjustments to the Northwest power pool generation as made available to the electricity information coordinator by the end of January of the current calendar year pursuant to RCW 19.29A.060(6);~~

~~(iii) Less the quantity of electricity associated with declared resources claimed by retail suppliers for the current calendar year;~~

~~(iv) Plus other adjustments necessary to ensure that the same resource output is not declared more than once;~~

~~(e) To the extent the information is available, verify that the quantity of electricity associated with the declared resources does not exceed the available generation from those resources.~~

~~(7) Subsections (3) and (6) of this section apply to the department in the event the department assumes the functions of the electricity information coordinator.))~~

NEW SECTION. Sec. 9. Sections 1 and 5 through 7 of this act are each added to chapter 19.29A RCW.

NEW SECTION. Sec. 10. RCW 19.29A.070 (Actions required of department—Convene work group—Report to legislature) and 2000 c 213 s 5 are each repealed.

Passed by the House April 18, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 223

[Second Substitute House Bill 1448]

VETERANS SERVICE OFFICER PROGRAM

AN ACT Relating to creating the veterans service officer program; adding new sections to chapter 43.60A RCW; and creating a new section.

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

NEW SECTION. Sec. 1. VETERANS SERVICE OFFICER PROGRAM.

(1) There is created in the department the veterans service officer program. The purpose of the veterans service officer program is to provide funding to underserved eligible counties to establish and maintain a veterans service officer within the county. "Eligible counties," for the purposes of this section, means counties with a population of one hundred thousand or less.

(2) Subject to the availability of amounts appropriated in the veterans service officer fund under section 2 of this act for the specific purposes provided in this section, the department must:

(a) Establish a process to educate local governments, veterans, and those still serving in the national guard or armed forces reserve of the veterans service officer program;

(b) Develop partnerships with local governments to assist in establishing and maintaining local veterans service officers in eligible counties who elect to have a veterans service officer; and

(c) Provide funding to support eligible counties in establishing and maintaining local accredited veterans service officers. Funding is provided on a first-come, first-served basis. Funding may only be provided to support the equivalent of one full-time veterans service officer per eligible county.

(3) The application process for the veterans service officer program must be prescribed as to manner and form by the department.

NEW SECTION. Sec. 2. VETERANS SERVICE OFFICER FUND. (1)

There is created in the custody of the state treasurer an account to be known as the veterans service officer fund. Revenues to the fund consist of appropriations by the legislature, private contributions, and all other sources deposited in the fund.

(2) Expenditures from the fund may only be used for the purposes of the veterans service officer program under section 1 of this act, including administrative expenses. Only the director, or the director's designee, may authorize expenditures. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act are each added to chapter 43.60A RCW.

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House March 4, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 224

[House Bill 1449]

PUBLIC LANDS DAY

AN ACT Relating to recognizing the fourth Saturday of September as public lands day; amending RCW 1.16.050; 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 public lands managed by federal, state, and local governments are one of the state's finest and most remarkable attributes. Public lands directly help power the economy of the state, through the multibillion dollar outdoor recreation economy, and working forests, aquatic lands, and other resources that are being sustainably managed for public benefit. The excellence and pervasiveness of public lands in Washington are also integral to making it an attractive place for people to live, work, and play. Therefore, it is the intent of the legislature to recognize and celebrate the incredible value of preserving and protecting the public lands in Washington by designating the fourth Saturday in September as public lands day.

Sec. 2. RCW 1.16.050 and 2018 c 307 s 1 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 fourth day of July, the anniversary of the Declaration of Independence;

(g) The first Monday in September, to be known as Labor Day;

(h) The eleventh day of November, to be known as Veterans' Day;

(i) The fourth Thursday in November, to be known as Thanksgiving Day;

(j) The Friday immediately following the fourth Thursday in November, to be known as Native American Heritage Day; and

(k) 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 nineteenth day of June, recognized as Juneteenth, a day of remembrance for the day the slaves learned of their freedom;

(m) The thirtieth day of March, recognized as welcome home Vietnam veterans day;

(n) The eleventh day of January, recognized as human trafficking awareness day; ~~(and)~~

(o) The thirty-first day of March, recognized as Cesar Chavez day; and

(p) The fourth Saturday of September, recognized as public lands day.

Passed by the House March 7, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 225

[Substitute House Bill 1480]

DREDGED MATERIAL DISPOSAL--PERMIT EXEMPTION

AN ACT Relating to streamlining the permitting process for disposing of dredged materials; and amending RCW 90.58.140.

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

Sec. 1. RCW 90.58.140 and 2015 3rd sp.s. c 15 s 7 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and this chapter.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (11) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

(a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or requests for decisions to the local government within thirty days of the last date the notice is to be published pursuant to this subsection. The local government shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995;

(b)(i) In the case of any permit or decision to issue any permit to the state of Washington, department of transportation, for the replacement of the floating bridge and landings of the state route number 520 Evergreen Point bridge on or adjacent to Lake Washington, the construction may begin twenty-one days from the date of filing. Any substantial development permit granted for the floating bridge and landings is deemed to have been granted on the date that the local government's decision to grant the permit is issued. This authorization to construct is limited to only those elements of the floating bridge and landings that do not preclude the department of transportation's selection of a four-lane alternative for state route number 520 between Interstate 5 and Medina. Additionally, the Washington state department of transportation shall not engage in or contract for any construction on any portion of state route number 520 between Interstate 5 and the western landing of the floating bridge until the legislature has authorized the imposition of tolls on the Interstate 90 floating bridge and/or other funding sufficient to complete construction of the state route number 520 bridge replacement and HOV program. For the purposes of this subsection (5)(b), the "western landing of the floating bridge" means the least amount of new construction necessary to connect the new floating bridge to the existing state route number 520 and anchor the west end of the new floating bridge;

(ii) Nothing in this subsection (5)(b) precludes the shorelines hearings board from concluding that the project or any element of the project is inconsistent with the goals and policies of the shoreline management act or the local shoreline master program;

(iii) This subsection (5)(b) applies retroactively to any appeals filed after January 1, 2012, and to any appeals filed on or after March 23, 2012, and expires June 30, 2014;

(c)(i) In the case of permits for projects addressing significant public safety risks, as defined by the department of transportation, it is not in the public interest to delay construction until all review proceedings are terminated. In the case of any permit issued under this chapter or decision to issue any permit under this chapter for a transportation project of the Washington state department of transportation, construction may begin twenty-one days after the date of filing if all components of the project achieve a no net loss of shoreline ecological functions, as defined by department guidelines adopted pursuant to RCW 90.58.060 and as determined through the following process:

(A) The department of transportation, as part of the permit review process, must provide the local government with an assessment of how the project affects shoreline ecological functions. The assessment must include specific actions for avoiding, minimizing, and mitigating impacts to shoreline ecological functions, developed in consultation with the department, that ensure there is no net loss of shoreline ecological functions; and

(B) The local government, after reviewing the assessment required in (c)(i)(A) of this subsection and prior to the final issuance of all appropriate shoreline permits and variances, must determine that the project will result in no net loss of shoreline ecological functions.

(ii) Nothing in this subsection (5)(c) precludes the shorelines hearings board from concluding that the shoreline project or any element of the project is inconsistent with this chapter, the local shoreline master program, chapter 43.21C RCW and its implementing regulations, or the applicable shoreline regulations.

(iii) This subsection (5)(c) does not apply to permit decisions for the replacement of the floating bridge and landings of the state route number 520 Evergreen Point bridge on or adjacent to Lake Washington;

(d) Except as authorized in (b) and (c) of this subsection, construction may be commenced no sooner than thirty days after the date of the appeal of the board's decision is filed if a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within twenty-one days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW. The appellant may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board should not commence. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would involve a significant, irreversible damaging of the environment, the court shall prohibit the permittee from commencing the construction pursuant to the approved or revised permit until all review proceedings are final. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit,

and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(e) Except as authorized in (b) and (c) of this subsection, if the permit is for a substantial development meeting the requirements of subsection (11) of this section, construction pursuant to that permit may not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in subsection (6) of this section.

If a permittee begins construction pursuant to (a), (b), (c), (d), or (e) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. This shall be accomplished by return receipt requested mail. A petition for review of such a decision must be commenced within twenty-one days from the date of filing of the decision.

(a) With regard to a permit other than a permit governed by subsection (10) of this section, "date of filing" as used in this section refers to the date of actual receipt by the department of the local government's decision.

(b) With regard to a permit for a variance or a conditional use governed by subsection (10) of this section, "date of filing" means the date the decision of the department is transmitted by the department to the local government.

(c) When a local government simultaneously transmits to the department its decision on a shoreline substantial development with its approval of either a shoreline conditional use permit or variance, or both, "date of filing" has the same meaning as defined in (b) of this subsection.

(d) The department shall notify in writing the local government and the applicant of the date of filing by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the

opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) Any permit for a variance or a conditional use issued with approval by a local government under their approved master program must be submitted to the department for its approval or disapproval.

(11)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (a)(i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

(ii) Will serve an existing use in compliance with this chapter; and

(iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state.

(12) A permit under this section is not required in order to dispose of dredged materials at a disposal site approved through the cooperative planning process referenced in RCW 79.105.500, provided the dredged material disposal proponent obtains a valid site use authorization from the dredged material management program office within the department of natural resources.

Passed by the House March 6, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 226

[House Bill 1516]

BLACK BEARS, COUGARS, AND BOBCATS--HUNTING AND PURSUIT WITH DOGS--
NONLETHAL TRAINING

AN ACT Relating to establishing a department of fish and wildlife directed nonlethal program for the purpose of training dogs; amending RCW 77.15.245; and adding a new section to chapter 77.12 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 77.12 RCW to read as follows:

(1) The commission shall adopt by rule a process and criteria to select persons who may act as agents of the state for the purpose of using one or more dogs to hunt or pursue black bear, cougar, or bobcat to protect livestock, domestic animals, private property, or the public safety. The commission rule must outline the requirements an applicant must comply with when applying for the program including, but not limited to, a criminal background check.

(2) The department shall administer a training program to enable persons who have been selected pursuant to subsection (1) of this section to train dogs for use consistent with this section. The purpose of this program is to provide dog training opportunities using nonlethal pursuit.

Sec. 2. RCW 77.15.245 and 2005 c 107 s 1 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 77.12.240, ~~((77.36.020;))~~ 77.36.030, or any other provisions of law, it is unlawful to take, hunt, or attract black bear with the aid of bait.

(a) Nothing in this subsection shall be construed to prohibit the killing of black bear with the aid of bait by employees or agents of county, state, or federal agencies while acting in their official capacities for the purpose of protecting livestock, domestic animals, private property, or the public safety.

(b) Nothing in this subsection shall be construed to prevent the establishment and operation of feeding stations for black bear in order to prevent damage to commercial timberland.

(c) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of bait to attract black bear for scientific purposes.

(d) As used in this subsection, "bait" means a substance placed, exposed, deposited, distributed, scattered, or otherwise used for the purpose of attracting black bears to an area where one or more persons hunt or intend to hunt them.

(2) Notwithstanding RCW 77.12.240, ~~((77.36.020;))~~ 77.36.030, or any other provisions of law, it is unlawful to hunt or pursue black bear, cougar, or bobcat ~~((; or lynx))~~ with the aid of a dog or dogs.

(a) Nothing in this subsection shall be construed to prohibit the ~~((killing))~~ hunting of black bear, cougar, or bobcat ~~((; or lynx))~~ with the aid of a dog or dogs by employees or agents of county, state, or federal agencies while acting in their official capacities for the purpose of protecting livestock, domestic animals, private property, or the public safety. A dog or dogs may be used by the owner or

tenant of real property consistent with a permit issued and conditioned by the director.

(b) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of a dog or dogs for the pursuit, capture and relocation, of black bear, cougar, or bobcat~~((, or lynx))~~ for scientific purposes.

(c) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of a dog or dogs for the killing of black bear, cougar, or bobcat, for the protection of a state and/or federally listed threatened or endangered species.

(d) Nothing in this subsection may be construed to prohibit nonlethal pursuit training of dogs by persons selected through the process established in section 1 of this act for future use for the purpose of protecting livestock, domestic animals, private property, or the public safety.

~~((a))~~ Notwithstanding subsection (2) of this section, the commission ~~((shall))~~ may authorize the use of dogs only in selected areas within a game management unit to address a public safety need presented by one or more cougar. This authority may only be exercised after the commission has determined that no other practical alternative to the use of dogs exists, and after the commission has adopted rules describing the conditions in which dogs may be used. Conditions that may warrant the use of dogs within a game management unit include, but are not limited to, confirmed cougar/human safety incidents, confirmed cougar/livestock and cougar/pet depredations, and the number of cougar capture attempts and relocations.

~~((b) The department shall post on their internet web site the known details of all reported cougar/human, cougar/pet, or cougar/livestock interactions within ten days of receiving the report. The posted material must include, but is not limited to, the location and time of all reported sightings, and the known details of any cougar/livestock incidents.))~~

(4) A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor. In addition to appropriate criminal penalties, the department shall revoke the hunting license of a person who violates subsection (1) or (2) of this section and order the suspension of wildlife hunting privileges for a period of five years following the revocation. Following a subsequent violation of subsection (1) or (2) of this section by the same person, a hunting license shall not be issued to the person at any time.

Passed by the House March 4, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 227

[Substitute House Bill 1531]

MEDICAL DEBT--COLLECTION

AN ACT Relating to medical debt; amending RCW 6.01.060, 6.32.010, 19.16.100, 19.16.250, 19.52.010, and 19.52.020; and adding a new section to chapter 70.54 RCW.

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

Sec. 1. RCW 6.01.060 and 2018 c 199 s 202 are each amended to read as follows:

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

(1) "Certified mail" includes, for mailings to a foreign country, any form of mail that requires or permits a return receipt.

(2) "Medical debt" has the same meaning as provided in RCW 19.16.100.

(3) "Private student loan" means any loan not guaranteed by the federal or state government that is used solely for personal use to finance postsecondary education and costs of attendance at an educational institution. A private student loan includes a loan made solely to refinance a private student loan. A private student loan does not include an extension of credit made under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

Sec. 2. RCW 6.32.010 and 1994 c 189 s 4 are each amended to read as follows:

(1) At any time within ten years after entry of a judgment for the sum of twenty-five dollars or over, unless the time is extended in accordance with RCW 6.17.020(3), upon application by the judgment creditor such court or judge may, by an order, require the judgment debtor to appear at a specified time and place before the judge granting the order, or a referee appointed by the judge, to answer concerning the same(~~and~~).

(2) Except as provided in subsection (4) of this section, the judge to whom application is made under this chapter may, if it is made to appear to her or her by the affidavit of the judgment creditor, his or her agent or attorney that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring him or her before the judge granting the order. Upon being brought before the judge, he or she may be ordered to enter into a bond, with sufficient sureties, that he or she will attend from time to time before the judge or referee, as shall be directed, during the pendency of the proceedings and until the final termination thereof.

(3) If the judgment debtor or other persons against whom the special proceedings are instituted has been served with these proceedings, the plaintiff shall be entitled to costs of service, notary fees, and an appearance fee of twenty-five dollars. If the judgment debtor or other persons fail to answer or appear, the plaintiff shall additionally be entitled to reasonable attorney fees. If a plaintiff institutes special proceedings and fails to appear, a judgment debtor or other person against whom the proceeding was instituted who appears is entitled to an appearance fee of twenty-five dollars and reasonable attorney fees.

(4) A plaintiff may not seek a warrant for the arrest of a judgment debtor for any act or failure to act that arises out of or relates to a judgment for medical debt, unless the act or failure to act constitutes a crime under state law.

Sec. 3. RCW 19.16.100 and 2015 c 201 s 3 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Board" means the Washington state collection agency board.

(2) "Claim" means any obligation for the payment of money or thing of value arising out of any agreement or contract, express or implied.

(3) "Client" or "customer" means any person authorizing or employing a collection agency to collect a claim.

(4) "Collection agency" means and includes:

(a) Any person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person;

(b) Any person who directly or indirectly furnishes or attempts to furnish, sells, or offers to sell forms represented to be a collection system or scheme intended or calculated to be used to collect claims even though the forms direct the debtor to make payment to the creditor and even though the forms may be or are actually used by the creditor himself or herself in his or her own name;

(c) Any person who in attempting to collect or in collecting his or her own claim uses a fictitious name or any name other than his or her own which would indicate to the debtor that a third person is collecting or attempting to collect such claim;

(d) Any person or entity that is engaged in the business of purchasing delinquent or charged off claims for collection purposes, whether it collects the claims itself or hires a third party for collection or an attorney for litigation in order to collect such claims;

(e) Any person or entity attempting to enforce a lien under chapter 60.44 RCW, other than the person or entity originally entitled to the lien.

(5) "Collection agency" does not mean and does not include:

(a) Any individual engaged in soliciting claims for collection, or collecting or attempting to collect claims on behalf of a licensee under this chapter, if said individual is an employee of the licensee;

(b) Any individual collecting or attempting to collect claims for not more than one employer, if all the collection efforts are carried on in the name of the employer and if the individual is an employee of the employer;

(c) Any person whose collection activities are carried on in his, her, or its true name and are confined and are directly related to the operation of a business other than that of a collection agency, such as but not limited to: Trust companies; savings and loan associations; building and loan associations; abstract companies doing an escrow business; real estate brokers; property management companies collecting assessments, charges, or fines on behalf of condominium unit owners associations, associations of apartment owners, or homeowners' associations; public officers acting in their official capacities; persons acting under court order; lawyers; insurance companies; credit unions; loan or finance companies; mortgage banks; and banks;

(d) Any person who on behalf of another person prepares or mails monthly or periodic statements of accounts due if all payments are made to that other person and no other collection efforts are made by the person preparing the statements of account;

(e) An "out-of-state collection agency" as defined in this chapter; or

(f) Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related

or affiliated and if the principal business of the person is not the collection of debts.

(6) "Commercial claim" means any obligation for payment of money or thing of value arising out of any agreement or contract, express or implied, where the transaction which is the subject of the agreement or contract is not primarily for personal, family, or household purposes.

(7) "Debtor" means any person owing or alleged to owe a claim.

(8) "Director" means the director of licensing.

(9) "Licensee" means any person licensed under this chapter.

(10) "Medical debt" means any obligation for the payment of money arising out of any agreement or contract, express or implied, for the provision of health care services as defined in RCW 48.44.010. In the context of "medical debt," "charity care" has the same meaning as provided in RCW 70.170.020.

(11) "Out-of-state collection agency" means a person whose activities within this state are limited to collecting debts from debtors located in this state by means of interstate communications, including telephone, mail, or facsimile transmission, from the person's location in another state on behalf of clients located outside of this state, but does not include any person who is excluded from the definition of the term "debt collector" under the federal fair debt collection practices act (15 U.S.C. Sec. 1692a(6)).

~~((11))~~ (12) "Person" includes individual, firm, partnership, trust, joint venture, association, or corporation.

~~((12))~~ (13) "Statement of account" means a report setting forth only amounts billed, invoices, credits allowed, or aged balance due.

Sec. 4. RCW 19.16.250 and 2016 c 86 s 4 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (10)(e) of this section.

(4) Have in his or her possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the unauthorized practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or her or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form, other than through proper legal action, process, or proceedings, which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he or she is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall provide this name to the debtor or cease efforts to collect on the debt until this information is provided;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or her or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or her or its behalf or on the behalf of a customer or assignor; and

(vi) Any other charge or fee that the licensee is attempting to collect on his or her or its own behalf or on the behalf of a customer or assignor;

(d) If the notice, letter, message, or form concerns a judgment obtained against the debtor, no itemization of the amounts contained in the judgment is required, except postjudgment interest, if claimed, and the current account balance;

(e) If the notice, letter, message, or form is the first notice to the debtor, an itemization of the claim asserted must be made including the following information:

(i) The original account number or redacted original account number assigned to the debt, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided; and

(ii) The date of the last payment to the creditor on the subject debt by the debtor, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided.

(9) Communicate in writing with a debtor concerning a claim through a proper legal action, process, or proceeding, where such communication is the first written communication with the debtor, without providing the information set forth in subsection (8)(c) of this section in the written communication.

(10) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) Except as provided in subsection (27)(c) of this section, a licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim. If the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall, upon receipt of written notice from the debtor that any part of the claim is disputed, notify the credit reporting bureau of the dispute by written or electronic means and create a record of the fact of the notification and when the notification was provided;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(11) Threaten the debtor with impairment of his or her credit rating if a claim is not paid: PROVIDED, That advising a debtor that the licensee has reported or intends to report a claim to a credit reporting agency is not considered a threat if the licensee actually has reported or intends to report the claim to a credit reporting agency.

(12) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or she or it again receives notification in writing that an attorney is representing the debtor.

(13) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week, unless the licensee is responding to a communication from the debtor or spouse;

(b) It is made with a debtor at his or her place of employment more than one time in a single week, unless the licensee is responding to a communication from the debtor;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a telephone is presumed to be received in the local time zone to which the area code of the number called is assigned for landline numbers, unless the licensee reasonably believes the telephone is located in a different time zone. If the area code is not assigned to landlines in any specific geographic area, such as with toll-free telephone numbers, a call to a telephone is presumed to be received in the local time zone of the debtor's last known place of residence, unless the licensee reasonably believes the telephone is located in a different time zone.

(14) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(15) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(16) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(17) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made: PROVIDED, That:

(a) This subsection does not prohibit a licensee from attempting to communicate by way of a cellular telephone or other wireless device: PROVIDED, That a licensee cannot cause charges to be incurred to the recipient of the attempted communication more than three times in any calendar week when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call is made.

(b) The licensee is not in violation of (a) of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone.

(c) This subsection may not be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(18) Call, or send a text message or other electronic communication to, a cellular telephone or other wireless device more than twice in any day when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call, text message, or other electronic communication is made. The licensee is not in violation of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone. Nothing in this subsection may be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(19) Intentionally block its telephone number from displaying on a debtor's telephone.

(20) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(21) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(22) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except as noted in subsection (21) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(23) Bring an action or initiate an arbitration proceeding on a claim when the licensee knows, or reasonably should know, that such suit or arbitration is barred by the applicable statute of limitations.

(24) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has

notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the series of identified checks, automated clearinghouse transactions on a demand deposit account, or written instruments and initiate additional oral contact for those debts that the debtor acknowledges do not arise from stolen or fraudulently created checks or written instruments; (iv) the oral contact is in the context of a judicial, administrative, arbitration, mediation, or similar proceeding; or (v) the oral contact is made for the purpose of investigating, confirming, or authenticating the information received from the debtor, to provide additional information to the debtor, or to request additional information from the debtor needed by the licensee to accurately record the debtor's information in the licensee's records.

(25) Bring an action or initiate an arbitration proceeding on a claim for any amounts related to a transfer of sale of a vehicle when:

(a) The licensee has been informed or reasonably should know that the department of licensing transfer of sale form was filed in accordance with RCW 46.12.650 (1) through (3);

(b) The licensee has been informed or reasonably should know that the transfer of the vehicle either (i) was not made pursuant to a legal transfer or (ii) was not voluntarily accepted by the person designated as the purchaser/transferee; and

(c) Prior to the commencement of the action or arbitration, the licensee has received from the putative transferee a copy of a police report referencing that the transfer of sale of the vehicle either (i) was not made pursuant to a legal transfer or (ii) was not voluntarily accepted by the person designated as the purchaser/transferee.

(26) Submit an affidavit or other request pursuant to chapter 6.32 RCW asking a superior or district court to transfer a bond posted by a debtor subject to a money judgment to the licensee, when the debtor has appeared as required.

(27) If the claim involves medical debt:

(a) Fail to include, with the first written notice to the debtor, a statement that informs the debtor of the debtor's right to request the original account number or redacted original account number assigned to the debt, the date of the last payment, and an itemized statement as provided in (b) of this subsection (27);

(b)(i) Fail to provide to the debtor, upon written or oral request by the debtor for more information than is contained in a general balance due letter, an itemized statement free of charge. Unless and until the licensee provides the itemized statement, the licensee must cease all collection efforts. The itemized statement must include:

(A) The name and address of the medical creditor;

(B) The date, dates, or date range of service;

(C) The health care services provided to the patient as indicated by the health care provider in a statement provided to the licensee;

(D) The amount of principal for any medical debt or debts incurred;

(E) Any adjustment to the bill, such as negotiated insurance rates or other discounts;

(F) The amount of any payments received, whether from the patient or any other party;

(G) Any interest or fees; and

(H) Whether the patient was found eligible for charity care or other reductions and, if so, the amount due after all charity care and other reductions have been applied to the itemized statement;

(ii) In the event the debtor has entered into a voluntary payment agreement, the debtor shall give notice if he or she wants the payment plan discontinued. If no notice is given, the payment arrangement may continue.

(iii) Properly executed postjudgment writs, including writs of garnishment and execution, are not required to be ceased and second or subsequent requests for information already provided do not require the cessation of collection efforts;

(c) Report adverse information to consumer credit reporting agencies or credit bureaus until at least one hundred eighty days after the original obligation was received by the licensee for collection or by assignment.

(28) If the claim involves hospital debt:

(a) Fail to include, with the first written notice to the debtor, a notice that the debtor may be eligible for charity care from the hospital, together with the contact information for the hospital;

(b) Collect or attempt to collect a claim related to hospital debt during the pendency of an application for charity care sponsorship or an appeal from a final determination of charity care sponsorship status. However, this prohibition is only applicable if the licensee has received notice of the pendency of the application or appeal.

Sec. 5. RCW 19.52.010 and 2011 c 336 s 542 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, every loan or forbearance of money, goods, or thing in action shall bear interest at the rate of twelve percent per annum where no different rate is agreed to in writing between the parties: PROVIDED, That with regard to any transaction heretofore or hereafter entered into subject to this section, if an agreement in writing between the parties evidencing such transaction provides for the payment of money at the end of an agreed period of time or in installments over an agreed period of time, then such agreement shall constitute a writing for purposes of this section and satisfy the requirements thereof. The discounting of commercial paper, where the borrower makes himself or herself liable as maker, guarantor, or indorser, shall be considered as a loan for the purposes of this chapter.

(2)(a) Prejudgment interest charged or collected on medical debt, as defined in RCW 19.16.100, must not exceed nine percent.

(b) For any medical debt for which prejudgment interest has accrued or may be accruing as of the effective date of this section, no prejudgment interest in excess of nine percent shall accrue thereafter.

(3) A lease shall not be considered a loan or forbearance for the purposes of this chapter if:

(a) It constitutes a "consumer lease" as defined in RCW 63.10.020;

(b) It constitutes a lease-purchase agreement under chapter 63.19 RCW; or

(c) It would constitute such "consumer lease" but for the fact that:

(i) The lessee was not a natural person;

(ii) The lease was not primarily for personal, family, or household purposes; or

(iii) The total contractual obligation exceeded twenty-five thousand dollars.

Sec. 6. RCW 19.52.020 and 1989 c 14 s 3 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, any rate of interest shall be legal so long as the rate of interest does not exceed the higher of: (a) Twelve percent per annum; or (b) four percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the later of (i) the establishment of the interest rate by written agreement of the parties to the contract, or (ii) any adjustment in the interest rate in the case of a written agreement permitting an adjustment in the interest rate. No person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater interest for the loan or forbearance of any money, goods, or things in action.

(2)(a) In any loan of money in which the funds advanced do not exceed the sum of five hundred dollars, a setup charge may be charged and collected by the lender, and such setup charge shall not be considered interest hereunder.

(b) The setup charge shall not exceed four percent of the amount of funds advanced, or fifteen dollars, whichever is the lesser, except that on loans of under one hundred dollars a minimum not exceeding four dollars may be so charged.

(3) Any loan made pursuant to a commitment to lend at an interest rate permitted at the time the commitment is made shall not be usurious. Credit extended pursuant to an open-end credit agreement upon which interest is computed on the basis of a balance or balances outstanding during a billing cycle shall not be usurious if on any one day during the billing cycle the rate at which interest is charged for the billing cycle is not usurious.

(4)(a) Prejudgment interest charged or collected on medical debt, as defined in RCW 19.16.100, must not exceed nine percent.

(b) For any medical debt for which prejudgment interest has accrued or may be accruing as of the effective date of this section, no prejudgment interest in excess of nine percent shall accrue thereafter.

NEW SECTION. Sec. 7. A new section is added to chapter 70.54 RCW to read as follows:

(1) No health care provider or health care facility may sell or assign medical debt to any person licensed under chapter 19.16 RCW until at least one hundred twenty days after the initial billing statement for that medical debt has been transmitted to the patient or other responsible party.

(2) For the purposes of this section:

(a) "Health care facility" has the same meaning as provided in RCW 70.02.010.

(b) "Health care provider" has the same meaning as provided in RCW 70.02.010.

(c) "Medical debt" has the same meaning as provided in RCW 19.16.100.

Passed by the House March 1, 2019.

Passed by the Senate April 15, 2019.
Approved by the Governor April 30, 2019.
Filed in Office of Secretary of State May 1, 2019.

CHAPTER 228

[House Bill 1533]

DOMESTIC VIOLENCE RESOURCES--WORKPLACE POSTERS

AN ACT Relating to making information about domestic violence resources available in the workplace; adding a new section to chapter 50.12 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 domestic violence causes physical and psychological harm, broken families, economic loss, and other societal ills. According to the center for disease control's national intimate partner and sexual violence survey, about one in three women and one in three men reported experiencing intimate partner violence in their lifetime. In Washington in 2017, over fifty-four thousand domestic violence offenses were reported to law enforcement and forty-nine domestic violence homicides were committed.

(2) The legislature finds that the workplace may be the only location in which an individual experiencing domestic violence may be free from a perpetrator and feel safe. Individuals experiencing domestic violence may also find the workplace a place of shared confidences. Therefore, the legislature intends to shine the light on and help curb domestic violence by providing, in the workplace, contact information for community resources regarding domestic violence.

NEW SECTION. Sec. 2. A new section is added to chapter 50.12 RCW to read as follows:

(1) The department shall create an employment poster regarding domestic violence. The poster shall include space in which an employer shall provide the name or names of community resources regarding domestic violence. The employer shall post the poster and keep it posted in a conspicuous place where other required employment posters are posted. The department shall make the poster available on its web site and may make the poster available in other formats.

(2) This section does not create any liability for (2) any person or entity for any acts or omissions.

Passed by the House February 20, 2019.
Passed by the Senate April 15, 2019.
Approved by the Governor April 30, 2019.
Filed in Office of Secretary of State May 1, 2019.

CHAPTER 229

[House Bill 1537]

PUBLIC RECORDS ACT EXEMPTIONS--SUNSHINE COMMITTEE RECOMMENDATIONS

AN ACT Relating to sunshine committee recommendations; amending RCW 42.56.250; and repealing RCW 42.56.340.

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

Sec. 1. RCW 42.56.250 and 2018 c 109 s 17 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, 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 conducting an active and ongoing investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment;

(7) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

(8) Except as provided in RCW 47.64.220, salary and benefit information for maritime employees collected from private employers under RCW 47.64.220(1) and described in RCW 47.64.220(2);

(9) Photographs and month and year of birth in the personnel files of 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;

(10) 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; and

(11) 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.

NEW SECTION. Sec. 2. RCW 42.56.340 (Timeshare, condominium, etc. owner lists) and 2005 c 274 s 414 are each repealed.

Passed by the House March 11, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 230

[Substitute House Bill 1575]

PUBLIC EMPLOYEE COLLECTIVE BARGAINING--REPRESENTATION--VARIOUS PROVISIONS

AN ACT Relating to strengthening the rights of workers through collective bargaining by addressing authorizations and revocations, certifications, and the authority to deduct and accept union dues and fees; amending RCW 28B.52.020, 28B.52.030, 28B.52.025, 28B.52.045, 41.56.060, 41.56.110, 41.56.113, 41.56.122, 41.59.060, 41.76.020, 41.76.045, 41.80.050, 41.80.080, 41.80.100, 47.64.090, 47.64.160, 49.39.080, 49.39.090, and 53.18.050; adding a new section to chapter 4.24 RCW; adding a new section to chapter 28B.52 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.80 RCW; adding a new section to chapter 49.39 RCW; and repealing RCW 41.59.100.

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) The legislature finds and declares application of this section to pending claims and actions clarifies existing state law rather than changes it. Public employees who paid agency or fair share fees as a condition of public employment in accordance with state law and supreme court precedent before June 27, 2018, had no legitimate expectation of receiving that money under any available cause of action. Public employers and employee organizations who relied on, and abided by, state law and supreme court precedent in deducting and accepting those fees were not liable to refund them. Agency or fair share fees paid for collective bargaining representation that employee organizations were obligated by state law to provide to public employees. Application of this section to pending claims will preserve, rather than interfere with, important reliance interests.

(2) Public employers and an employee organization, or any of their employees or agents, are not liable for, and have a complete defense to, any claims or actions under the law of this state for requiring, deducting, receiving, or retaining agency or fair share fees from public employees, and current or former public employees do not have standing to pursue these claims or actions, if the fees were permitted at the time under the laws of this state then in force and paid, through payroll deduction or otherwise, before June 27, 2018.

(a) This section applies to all claims and actions pending on the effective date of this section, and to claims and actions filed on or after the effective date of this section.

(b) This section may not be interpreted to infer that any relief made unavailable by this section would otherwise be available.

(3) This section is necessary to provide certainty to public employers and employee organizations that relied on state law, and to avoid disruption of public employee labor relations, after the supreme court's decision in *Janus v. American Federation of State, County, and Municipal Employees, Council 31* (2018) 138 S.Ct. 2448.

(4) For purposes of this section:

(a) "Employee organization" means any organization that functioned as an exclusive collective bargaining representative for public employees under any statute, ordinance, regulation, or other state or local law, and any labor organization with which it was affiliated.

(b) "Public employer" means any public employer including, but not limited to, the state, a court, a city, a county, a city and county, a school district, a community college district, an institution of higher education and its board or regents, a transit district, any public authority, any public agency, any other political subdivision or public corporation, or any other entity considered a public employer for purposes of the labor relations statutes of Washington.

Sec. 2. RCW 28B.52.020 and 1991 c 238 s 146 are each amended to read as follows:

As used in this chapter:

(1) "Employee organization" means any organization which includes as members the academic employees of a college district and which has as one of its purposes the representation of the employees in their employment relations with the college district.

(2) "Academic employee" means any teacher, counselor, librarian, or department head, who is employed by any college district, whether full or part time, with the exception of the chief administrative officer of, and any administrator in, each college district.

(3) "Administrator" means any person employed either full or part time by the college district and who performs administrative functions as at least fifty percent or more of his or her assignments, and has responsibilities to hire, dismiss, or discipline other employees. Administrators shall not be members of the bargaining unit unless a majority of such administrators and a majority of the bargaining unit elect by secret ballot for such inclusion pursuant to rules as adopted in accordance with RCW 28B.52.080.

(4) "Commission" means the public employment relations commission.

(5) "Unfair labor practice" means any unfair labor practice listed in RCW 28B.52.073.

(6) (~~"Union security provision" means a provision in a collective bargaining agreement under which some or all employees in the bargaining unit may be required, as a condition of continued employment on or after the thirtieth day following the beginning of such employment or the effective date of the provision, whichever is later, to become a member of the exclusive bargaining representative or pay an agency fee equal to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative.~~

(7)) "Exclusive bargaining representative" means any employee organization which has:

(a) Been certified or recognized under this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Before July 26, 1987, been certified or recognized under a predecessor statute as the representative of the employees in a bargaining unit which continues to be appropriate under this chapter.

~~((8))~~ (7) "Collective bargaining" and "bargaining" mean the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times to bargain in good faith in an effort to reach agreement with respect to wages, hours, and other terms and conditions of employment, such as procedures related to nonretention, dismissal, denial of tenure, and reduction in force. Prior law, practice, or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which items are mandatory subjects for bargaining.

Sec. 3. RCW 28B.52.030 and 1991 c 238 s 147 are each amended to read as follows:

Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the academic employees within its college district, shall have the right to bargain ~~((as defined in RCW 28B.52.020(8)))~~.

Sec. 4. RCW 28B.52.025 and 1987 c 314 s 5 are each amended to read as follows:

Employees have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and also have the right to refrain from any or all of these activities ~~((except to the extent that employees may be required to make payments to an exclusive bargaining representative or charitable organization under a union security provision authorized in this chapter))~~.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.52 RCW to read as follows:

(1)(a) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(b) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(c) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(2)(a) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(b) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(3) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

Sec. 6. RCW 28B.52.045 and 2018 c 247 s 1 are each amended to read as follows:

~~(1)((a) A collective bargaining agreement may include union security provisions, but not a closed shop.~~

~~(b)) Upon ((written)) authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.~~

~~((c)) ((2) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that((:~~

~~(i) Includes a union security provision authorized under (a) of this subsection, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(ii)) includes requirements for deductions of other payments ((other than the deduction under (c)(i) of this subsection)), the employer must make such deductions upon ((written)) authorization of the employee.~~

~~((2) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the employee and the employee organization to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payments have been made. If the employee and the employee organization do not reach agreement on such matter, the commission shall designate the charitable organization-))~~

Sec. 7. RCW 41.56.060 and 2005 c 232 s 1 are each amended to read as follows:

(1) The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of

collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. The commission shall determine the bargaining representative by: (a) Examination of organization membership rolls; (b) comparison of signatures on organization bargaining authorization cards, as provided under section 8 of this act; or (c) conducting an election specifically therefor.

(2) For classified employees of school districts and educational service districts:

(a) Appropriate bargaining units existing on July 24, 2005, may not be divided into more than one unit without the agreement of the public employer and the certified bargaining representative of the unit; and

(b) In making bargaining unit determinations under this section, the commission must consider, in addition to the factors listed in subsection (1) of this section, the avoidance of excessive fragmentation.

NEW SECTION. Sec. 8. A new section is added to chapter 41.56 RCW to read as follows:

(1) Except as provided under subsection (2) of this section, if only one employee organization is seeking certification as the exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees. The commission may adopt rules to implement this section.

(2) This section does not apply to those employees under RCW 41.56.026, 41.56.028, 41.56.029, and 41.56.510.

Sec. 9. RCW 41.56.110 and 2018 c 247 s 2 are each amended to read as follows:

(1) Upon the (~~written~~) authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer shall deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

(2)(a) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(b) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(c) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(3)(a) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(b) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(4) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(5) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that(:

~~(a) Includes a union security provision authorized under RCW 41.56.122, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(b)) includes requirements for deductions of other payments ((other than the deduction under (a) of this subsection)), the employer must make such deductions upon ((written)) authorization of the employee.~~

Sec. 10. RCW 41.56.113 and 2018 c 278 s 29 are each amended to read as follows:

(1) This subsection (1) applies only if the state makes the payments directly to a provider.

(a) Upon the ~~((written))~~ authorization of an individual provider who contracts with the department of social and health services, a family child care provider, an adult family home provider, or a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to (c) of this subsection, deduct from the payments to an individual provider who contracts with the department of social and health services, a family child care provider, an adult family home provider, or a language access provider the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

(b)(i) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(ii) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(iii) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(iv) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(v) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(vi) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(vii) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers who contract with the department of social and health services, family child care providers, adult family home providers, or language access providers enter into a collective bargaining agreement that(:

~~(i) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to (c) of this subsection, enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(ii)) includes requirements for deductions of other payments ((~~other than the deduction under (b)(i) of this subsection~~)), the state, as payor, but not as the employer, shall, subject to (c) of this subsection, make such deductions upon ((~~written~~)) authorization of the individual provider, family child care provider, adult family home provider, or language access provider.~~

(c)(i) The initial additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, and language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

(ii) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, or language access providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300, 41.56.028, 41.56.029, or 41.56.510, as applicable, the ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, or language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

~~((d) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.))~~

(2) This subsection (2) applies only if the state does not make the payments directly to a language access provider. ~~((a))~~ Upon the ~~((written))~~ authorization of a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state shall require through its contracts with third parties that:

~~((i))~~ (a) The monthly amount of dues as certified by the secretary of the exclusive bargaining representative be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and

~~((ii))~~ (b) A record showing that dues have been deducted as specified in ~~((i))~~ of this subsection be provided to the state.

~~((b) If the governor and the exclusive bargaining representative of the bargaining unit of language access providers enter into a collective bargaining agreement that includes a union security provision authorized in RCW 41.56.122, the state shall enforce the agreement by requiring through its contracts with third parties that:~~

~~(i) The monthly amount of dues required for membership in the exclusive bargaining representative as certified by the secretary of the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues, be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and~~

~~(ii) A record showing that dues or fees have been deducted as specified in ~~((i))~~ of this subsection be provided to the state.))~~

(3) This subsection (3) applies only to individual providers who contract with the department of social and health services. ~~((If the governor and the exclusive bargaining representative of a bargaining unit of individual providers enter into a collective bargaining agreement that meets the requirements in subsection (1)(b)(i) or (ii) of this section, and the state as payor, but not as the employer, contracts with a third-party entity to perform its obligations as set forth in those subsections, and that third-party contracts with the exclusive bargaining representative to perform voluntary deductions for individual providers, the exclusive bargaining representative may direct the third-party to make the deductions required by the collective bargaining agreement, at the expense of the exclusive bargaining representative, so long as such deductions by the exclusive bargaining representative do not conflict with any federal or state law.))~~ The exclusive bargaining representative of individual providers may designate a third-party entity to act as the individual provider's agent in receiving payments from the state to the individual provider, so long as the individual provider has entered into an agency agreement with a third-party entity for the purposes of deducting and remitting voluntary payments to the exclusive bargaining representative. A third-party entity that receives such payments is responsible for making and remitting deductions authorized by the individual

provider. The costs of such deductions must be paid by the exclusive bargaining representative.

Sec. 11. RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each amended to read as follows:

A collective bargaining agreement may(±

~~(1) Contain union security provisions: PROVIDED, That nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.~~

~~(2)) provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement.~~

Sec. 12. RCW 41.59.060 and 2018 c 247 s 3 are each amended to read as follows:

(1) Employees shall have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and shall also have the right to refrain from any or all of such activities ~~((except to the extent that employees may be required to pay a fee to any employee organization under an agency shop agreement authorized in this chapter)).~~

(2)(a) Upon ~~((written))~~ authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

(b) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(c) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the

employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(d) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(e) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(f) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(g) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(3) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that(:

~~(i) Includes a union security provision authorized under RCW 41.59.100, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(ii) includes requirements for deductions of other payments ((other than the deduction under (b)(i) of this subsection)), the employer must make such deductions upon ((written)) authorization of the employee.~~

Sec. 13. RCW 41.76.020 and 2002 c 356 s 7 are each amended to read as follows:

The commission shall certify exclusive bargaining representatives in accordance with the procedures specified in this section.

(1) No question concerning representation may be raised within one year following issuance of a certification under this section.

(2) If there is a valid collective bargaining agreement in effect, no question concerning representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement: PROVIDED, That in the event a valid collective bargaining agreement, together with any renewals or extensions thereof, has been or will be in existence for more than three years, then a question concerning representation may be raised not more than ninety nor less than sixty days prior to the third anniversary date or any subsequent anniversary date of the agreement; and if the exclusive bargaining representative is removed as the result of such procedure, the collective bargaining agreement shall be deemed to be terminated as of the date of the certification or the anniversary date following the filing of the petition, whichever is later.

(3) An employee organization seeking certification as exclusive bargaining representative of a bargaining unit, or faculty members seeking decertification of their exclusive bargaining representative, must make a confidential showing to the commission of credible evidence demonstrating that at least thirty percent of the faculty in the bargaining unit are in support of the petition. The petition must

indicate the name, address, and telephone number of any employee organization known to claim an interest in the bargaining unit.

(4) A petition filed by an employer must be supported by credible evidence demonstrating the good faith basis on which the employer claims the existence of a question concerning the representation of its faculty.

(5) Any employee organization which makes a confidential showing to the commission of credible evidence demonstrating that it has the support of at least ten percent of the faculty in the bargaining unit involved is entitled to intervene in proceedings under this section and to have its name listed as a choice on the ballot in an election conducted by the commission.

(6) The commission shall determine any question concerning representation by conducting a secret ballot election among the faculty members in the bargaining unit, except under the following circumstances:

(a) If only one employee organization is seeking certification as exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may(~~(, upon the concurrence of the employer and the employee organization,))~~ determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees; or

(b) If the commission determines that a serious unfair labor practice has been committed which interfered with the election process and precludes the holding of a fair election, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(c) The commission may adopt rules to implement this subsection (6).

(7) The representation election ballot must contain a choice for each employee organization qualifying under subsection (3) or (5) of this section, together with a choice for no representation. The representation election shall be determined by the majority of the valid ballots cast. If there are three or more choices on the ballot and none of the three or more choices receives a majority of the valid ballots cast, a runoff election shall be conducted between the two choices receiving the highest and second highest numbers of votes.

(8) The commission shall certify as the exclusive bargaining representative the employee organization that has been determined to represent a majority of faculty members in a bargaining unit.

Sec. 14. RCW 41.76.045 and 2018 c 247 s 4 are each amended to read as follows:

(1)(a) (~~(A collective bargaining agreement may include union security provisions, but not a closed shop.~~

(b)) Upon (~~written~~) authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the

exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

~~((e))~~ (b) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(c) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(d) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(e) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(f) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(g) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(2) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that

(i) ~~includes a union security provision authorized under (a) of this subsection, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(ii) includes requirements for deductions of other payments ((other than the deduction under (c)(i) of this subsection)), the employer must make such deductions upon ((written)) authorization of the employee.~~

~~((2) A faculty member who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such faculty member is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the faculty member and the employee organization to which such faculty member would otherwise pay the dues and fees. The faculty member shall furnish written proof that such payments have been made. If the faculty member and the employee organization do not reach agreement on such matter, the dispute shall be submitted to the commission for determination.))~~

Sec. 15. RCW 41.80.050 and 2002 c 354 s 306 are each amended to read as follows:

Except as may be specifically limited by this chapter, employees shall have the right to self-organization, to form, join, or assist employee organizations, and to bargain collectively through representatives of their own choosing for the purpose of collective bargaining free from interference, restraint, or coercion. Employees shall also have the right to refrain from any or all such activities ~~((except to the extent that they may be required to pay a fee to an exclusive bargaining representative under a union security provision authorized by this chapter)).~~

NEW SECTION. **Sec. 16.** A new section is added to chapter 41.80 RCW to read as follows:

If only one employee organization is seeking certification as exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees. The commission may adopt rules to implement this section.

Sec. 17. RCW 41.80.080 and 2002 c 354 s 309 are each amended to read as follows:

(1) The commission shall determine all questions pertaining to representation and shall administer all elections and cross-check procedures, and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections and cross-check procedures. The commission shall adopt rules that provide for at least the following:

- (a) Secret balloting;
- (b) Consulting with employee organizations;
- (c) Access to lists of employees, job classification, work locations, and home mailing addresses;
- (d) Absentee voting;
- (e) Procedures for the greatest possible participation in voting;
- (f) Campaigning on the employer's property during working hours; and
- (g) Election observers.

(2)(a) If an employee organization has been certified as the exclusive bargaining representative of the employees of a bargaining unit, the employee organization may act for and negotiate master collective bargaining agreements that will include within the coverage of the agreement all employees in the bargaining unit as provided in RCW 41.80.010(2)(a). However, if a master collective bargaining agreement is in effect for the exclusive bargaining representative, it shall apply to the bargaining unit for which the certification has been issued. Nothing in this section requires the parties to engage in new negotiations during the term of that agreement.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education.

(3) The certified exclusive bargaining representative shall be responsible for representing the interests of all the employees in the bargaining unit. This section shall not be construed to limit an exclusive representative's right to

exercise its discretion to refuse to process grievances of employees that are unmeritorious.

(4) No question concerning representation may be raised if:

(a) Fewer than twelve months have elapsed since the last certification or election; or

(b) A valid collective bargaining agreement exists covering the unit, except for that period of no more than one hundred twenty calendar days nor less than ninety calendar days before the expiration of the contract.

Sec. 18. RCW 41.80.100 and 2018 c 247 s 5 are each amended to read as follows:

(1) ~~((A collective bargaining agreement may contain a union security provision requiring as a condition of employment the payment, no later than the thirtieth day following the beginning of employment or July 1, 2004, whichever is later, of an agency shop fee to the employee organization that is the exclusive bargaining representative for the bargaining unit in which the employee is employed. The amount of the fee shall be equal to the amount required to become a member in good standing of the employee organization. Each employee organization shall establish a procedure by which any employee so requesting may pay a representation fee no greater than the part of the membership fee that represents a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment.~~

(2) ~~An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets, or teachings of a church or religious body of which the employee is a member, shall, as a condition of employment, make payments to the employee organization, for purposes within the program of the employee organization as designated by the employee that would be in harmony with his or her individual conscience. The amount of the payments shall be equal to the periodic dues and fees uniformly required as a condition of acquiring or retaining membership in the employee organization minus any included monthly premiums for insurance programs sponsored by the employee organization. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.~~

(3)~~(a))~~ Upon ~~((written))~~ authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

~~((b))~~ (2)(a) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that(~~(:~~

(i) ~~Includes a union security provision authorized under subsection (1) of this section, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~((ii))~~ includes requirements for deductions of other payments (~~((other than the deduction under (b)(i) of this subsection))~~), the employer must make such deductions upon (~~((written))~~) authorization of the employee.

~~((4))~~ Employee organizations that before July 1, 2004, were entitled to the benefits of this section shall continue to be entitled to these benefits. (b) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(c) Upon receiving notice of the employee's authorization, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(d) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(e) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(f) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(g) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

Sec. 19. RCW 47.64.090 and 2011 1st sp.s. c 16 s 25 are each amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the national labor relations act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

Sec. 20. RCW 47.64.160 and 1983 c 15 s 7 are each amended to read as follows:

(1) A collective bargaining agreement may include ((union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to:)) a provision for members of the bargaining unit to authorize the deduction of membership dues from their salary, and the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership ((in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. All union security provisions shall safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization)). An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(2)(a) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(b) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(c) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(d) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(e) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

NEW SECTION. Sec. 21. A new section is added to chapter 49.39 RCW to read as follows:

If only one employee organization is seeking certification as exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the

exclusive bargaining representative by more than fifty percent of the employees. The commission may adopt rules to implement this section.

Sec. 22. RCW 49.39.080 and 2018 c 247 s 6 are each amended to read as follows:

(1) Upon the ~~((written))~~ authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

(2)(a) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(b) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(c) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(d) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(e) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(f) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(3) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that(~~(:~~

~~(a) Includes a union security provision authorized under RCW 49.39.090, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(b)) includes requirements for deductions of other payments ((other than the deduction under (a) of this subsection)), the employer must make such deductions upon ((written)) authorization of the employee.~~

Sec. 23. RCW 49.39.090 and 2010 c 6 s 10 are each amended to read as follows:

A collective bargaining agreement may(~~(:~~

~~(1) Contain union security provisions. However, nothing in this section authorizes a closed shop provision. Agreements involving union security~~

~~provisions must safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which the symphony musician is a member. The symphony musician must pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the symphony musician affected and the bargaining representative to which the symphony musician would otherwise pay the dues and initiation fee. The symphony musician must furnish written proof that the payment has been made. If the symphony musician and the bargaining representative do not reach agreement on this matter, the commission must designate the charitable organization;~~

(2)) provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement.

Sec. 24. RCW 53.18.050 and 1967 c 101 s 5 are each amended to read as follows:

A labor agreement signed by a port district may contain:

(1) Provisions that the employee organization chosen by a majority of the employees in a grouping or unit will be recognized as the representative of all employees in the classification included in such grouping or unit;

(2) Maintenance of membership provisions including dues ~~((check-off))~~ cross-check arrangements as provided in section 8 of this act; and

(3) Provisions providing for binding arbitration, the expenses being equally borne by the parties, in matters of contract interpretation and the settlement of jurisdictional disputes.

NEW SECTION. Sec. 25. RCW 41.59.100 (Union security provisions—Scope—Agency shop provision, collection of dues or fees) and 1975 1st ex.s. c 288 s 11 are each repealed.

NEW SECTION. Sec. 26. 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 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 231

[House Bill 1589]

CORRECTIONAL EMPLOYEES--CONCEALED PISTOL LICENSE EXEMPTION-- BACKGROUND CHECK

AN ACT Relating to the exemption from restrictions on carrying firearms for correctional employees who have completed government-sponsored law enforcement firearms training; and amending RCW 9.41.060.

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

Sec. 1. RCW 9.41.060 and 2011 c 221 s 1 are each amended to read as follows:

The provisions of RCW 9.41.050 shall not apply to:

(1) Marshals, sheriffs, prison or jail wardens or their deputies, correctional personnel and community corrections officers as long as they are employed as such who have completed government-sponsored law enforcement firearms training and have been subject to a ~~((check through the national instant criminal background check system or an equivalent))~~ background check within the past five years, or other law enforcement officers of this state or another state ~~((Correctional personnel and community corrections officers seeking the waiver provided for by this section are required to pay for any background check that is needed in order to exercise the waiver))~~;

(2) Members of the armed forces of the United States or of the national guard or organized reserves, when on duty;

(3) Officers or employees of the United States duly authorized to carry a concealed pistol;

(4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;

(5) Regularly enrolled members of any organization duly authorized to purchase or receive pistols from the United States or from this state;

(6) Regularly enrolled members of clubs organized for the purpose of target shooting, when those members are at or are going to or from their places of target practice;

(7) Regularly enrolled members of clubs organized for the purpose of modern and antique firearm collecting, when those members are at or are going to or from their collector's gun shows and exhibits;

(8) Any person engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;

(9) Any person while carrying a pistol unloaded and in a closed opaque case or secure wrapper; or

(10) Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has: (a) Obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability; and (b) not been convicted or found not guilty by reason of insanity of a crime making him or her ineligible for a concealed pistol license.

Passed by the House March 6, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 232

[Substitute Senate Bill 5017]

UNIFORM UNSWORN DECLARATIONS ACT

AN ACT Relating to the uniform unsworn declarations act; amending RCW 5.50.010, 5.50.020, 5.50.050, 5.50.900, 5.50.901, 7.64.020, 7.70.065, 9A.04.030, 9A.72.010, 10.25.065, 11.96A.250, 18.104.093, 18.104.097, 39.04.350, 39.26.160, 46.09.320, 46.12.530, 46.12.555, 46.16A.435, 46.20.308, 46.20.720, 47.68.250, 71.09.070, 81.84.020, and 88.02.540; reenacting and amending RCW 59.18.030; repealing RCW 9A.72.085; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 5.50.010 and 2011 c 22 s 2 are each amended to read as follows:

In this chapter:

~~(1) ("Boundaries of the United States" means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.~~

~~(2))~~ "Law" includes ~~((the federal or a state Constitution,))~~ a ~~((federal or state))~~ statute, ~~((a))~~ judicial decision or order, ~~((a))~~ rule of court, ~~((an))~~ executive order, and ~~((an))~~ administrative rule, regulation, or order.

~~((3))~~ (2) "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.

~~((4))~~ (3) "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 symbol, sound, or process;

(c) To affix or place the declarant's signature as defined in RCW 9A.04.110 on the record;

(d) To attach or logically associate the declarant's digital signature or electronic signature as defined in RCW 19.34.020 to the record;

(e) To affix or logically associate the declarant's signature in the manner described in general rule 30 to the record if he or she is a licensed attorney; or

(f) To affix or logically associate the declarant's full name, department or agency, and badge or personnel number to any record that is electronically submitted to a court, a prosecutor, or a magistrate from an electronic device that is owned, issued, or maintained by a criminal justice agency if the declarant is a law enforcement officer.

~~((5) "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.~~

~~(6))~~ (4) "Sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

~~((7))~~ (5) "Unsworn declaration" means a declaration in a signed record ~~((that is))~~ not given under oath ~~((;))~~ but ~~((is))~~ given under penalty of perjury. The term includes an unsworn statement, verification, and certificate.

Sec. 2. RCW 5.50.020 and 2011 c 22 s 3 are each amended to read as follows:

This chapter applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located within or outside the boundaries of the United States, whether or not the location is subject to the jurisdiction of the United States. ~~((This chapter does not apply to a declaration by a declarant who is physically located on property that is within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.))~~

Sec. 3. RCW 5.50.050 and 2011 c 22 s 6 are each amended to read as follows:

An unsworn declaration under this chapter must be in substantially the following form:

I declare under penalty of perjury under the law of Washington that the foregoing is true and correct~~((, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States)).~~

~~((Executed))~~ Signed on the day of , ,
(date) (month) (year)

at~~((,))~~
(city or other location, and state or country) ~~((country))~~

.
(printed name)

.
(signature)

Sec. 4. RCW 5.50.900 and 2011 c 22 s 1 are each amended to read as follows:

This chapter may be cited as the uniform unsworn ~~((foreign))~~ declarations act.

Sec. 5. RCW 5.50.901 and 2011 c 22 s 7 are each amended to read as follows:

In applying and construing this uniform act and chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 6.** RCW 9A.72.085 (Unsworn statements, certification—Standards for subscribing to an unsworn statement) and 2014 c 93 s 4 & 1981 c 187 s 3, as now existing or hereafter amended, are each repealed, effective July 1, 2021.

CONFORMING AMENDMENTS

Sec. 7. RCW 7.64.020 and 2004 c 74 s 1 are each amended to read as follows:

- (1) At the time of filing the complaint or any time thereafter, the plaintiff may apply to the judge or court commissioner to issue an order directing the defendant to appear and show cause why an order putting the plaintiff in immediate possession of the personal property should not be issued.

(2) In support of the application, the plaintiff, or someone on the plaintiff's behalf, shall make an affidavit, or a declaration as permitted under (~~RCW 9A.72.085~~) chapter 5.50 RCW, showing:

(a) That the plaintiff is the owner of the property or is lawfully entitled to the possession of the property by virtue of a special property interest, including a security interest, specifically describing the property and interest;

(b) That the property is wrongfully detained by defendant;

(c) That the property has not been taken for a tax, assessment, or fine pursuant to a statute and has not been seized under an execution or attachment against the property of the plaintiff, or if so seized, that it is by law exempt from such seizure; and

(d) The approximate value of the property.

(3) The order to show cause shall state the date, time, and place of the hearing and contain a notice to the defendant that failure to promptly turn over possession of the property to the plaintiff or the sheriff, if an order awarding possession is issued under RCW 7.64.035(1), may subject the defendant to being held in contempt of court.

(4) A certified copy of the order to show cause, with a copy of the plaintiff's affidavit or declaration attached, shall be served upon the defendant no later than five days before the hearing date.

Sec. 8. RCW 7.70.065 and 2017 c 275 s 1 are each amended to read as follows:

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(e), to consent may be obtained from a person authorized to consent on behalf of such patient.

(a) Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent, based upon a reason other than incapacity as defined in RCW 11.88.010(1)(d), shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian of the patient, if any;

(ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;

(iii) The patient's spouse or state registered domestic partner;

(iv) Children of the patient who are at least eighteen years of age;

(v) Parents of the patient; and

(vi) Adult brothers and sisters of the patient.

(b) If the health care provider seeking informed consent for proposed health care of the patient who is not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(i) If a person of higher priority under this section has refused to give such authorization; or

(ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

(2) Informed consent for health care, including mental health care, for a patient who is not competent, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care, including mental health care, on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to ((RCW 9A.72.085)) chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b)(i) Informed consent for health care on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent may be obtained from a school nurse, school counselor, or homeless student liaison when:

(A) Consent is necessary for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries;

(B) The minor patient meets the definition of a "homeless child or youth" under the federal McKinney-Vento homeless education assistance improvements act of 2001, P.L. 107-110, January 8, 2002, 115 Stat. 2005; and

(C) The minor patient is not under the supervision or control of a parent, custodian, or legal guardian, and is not in the care and custody of the department of social and health services.

(ii) A person authorized to consent to care under this subsection (2)(b) and the person's employing school or school district are not subject to administrative sanctions or civil damages resulting from the consent or nonconsent for care, any care, or payment for any care, rendered pursuant to this section. Nothing in this section prevents a health care facility or a health care provider from seeking reimbursement from other sources for care provided to a minor patient under this subsection (2)(b).

(iii) Upon request by a health care facility or a health care provider, a person authorized to consent to care under this subsection (2)(b) must provide to the person rendering care a declaration signed and dated under penalty of perjury pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW stating that the person is a school nurse, school counselor, or homeless student liaison and that the minor patient meets the elements under (b)(i) of this subsection. The declaration must also include written notice of the exemption from liability under (b)(ii) of this subsection.

(c) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative responsible for the health care of the minor patient, or person claiming to be authorized to consent to the health care of the minor patient.

(d) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection. However, there is no obligation to require such documentation.

(e) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection.

(3) For the purposes of this section, "health care," "health care provider," and "health care facility" shall be defined as established in RCW 70.02.010.

Sec. 9. RCW 9A.04.030 and 1999 c 349 s 1 are each amended to read as follows:

The following persons are liable to punishment:

- (1) A person who commits in the state any crime, in whole or in part.
- (2) A person who commits out of the state any act which, if committed within it, would be theft and is afterward found in the state with any of the stolen property.
- (3) A person who being out of the state, counsels, causes, procures, aids, or abets another to commit a crime in this state.

(4) A person who, being out of the state, abducts or kidnaps by force or fraud, any person, contrary to the laws of the place where the act is committed, and brings, sends, or conveys such person into this state.

(5) A person who commits an act without the state which affects persons or property within the state, which, if committed within the state, would be a crime.

(6) A person who, being out of the state, makes a statement, declaration, verification, or certificate under ((RCW 9A.72.085)) chapter 5.50 RCW which, if made within the state, would be perjury.

(7) A person who commits an act onboard a conveyance within the state of Washington, including the airspace over the state of Washington, that subsequently lands, docks, or stops within the state which, if committed within the state, would be a crime.

Sec. 10. RCW 9A.72.010 and 2001 c 171 s 2 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Materially false statement" means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding; ((whether a false statement is material shall be determined by the court as a matter of law;))

(2) "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated; in this chapter, written statements shall be treated as if made under oath if:

(a) The statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable;

(b) The statement recites that it was made under oath, the declarant was aware of such recitation at the time he or she made the statement, intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto; or

(c) It is a statement, declaration, verification, or certificate, made within or outside the state of Washington, which is ((certified or)) declared to be true under penalty of perjury as provided in ((RCW 9A.72.085)) chapter 5.50 RCW.

(3) An oath is "required or authorized by law" when the use of the oath is specifically provided for by statute or regulatory provision or when the oath is administered by a person authorized by state or federal law to administer oaths;

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or depositions;

(5) "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court of this state or by any public servant authorized by law to impanel a jury; the term juror also includes any person who has been drawn or summoned to attend as a prospective juror;

(6) "Testimony" includes oral or written statements, documents, or any other material that may be offered by a witness in an official proceeding.

Sec. 11. RCW 10.25.065 and 1981 c 187 s 4 are each amended to read as follows:

Perjury committed outside of the state of Washington in a statement, declaration, verification, or certificate authorized by ((RCW 9A.72.085)) chapter 5.50 RCW is punishable in the county in this state in which occurs the act, transaction, matter, action, or proceeding, in relation to which the statement, declaration, verification, or certification was given or made.

Sec. 12. RCW 11.96A.250 and 2013 c 272 s 21 are each amended to read as follows:

(1)(a) Any party or the parent of a minor or unborn party may petition the court for the appointment of a special representative to represent a party: (i) Who is a minor; (ii) who is incapacitated without an appointed guardian of his or her estate; (iii) who is yet unborn or unascertained; or (iv) whose identity or address is unknown. The petition may be heard by the court without notice.

(b) In appointing the special representative the court shall give due consideration and deference to any nomination(s) made in the petition, the special skills required in the representation, and the need for a representative who will act independently and prudently. The nomination of a person as special representative by the petitioner and the person's willingness to serve as special representative are not grounds by themselves for finding a lack of independence, however, the court may consider any interests that the nominating party may have in the estate or trust in making the determination.

(c) The special representative may enter into a binding agreement on behalf of the person or beneficiary. The special representative may be appointed for more than one person or class of persons if the interests of such persons or class are not in conflict. The petition must be verified. The petition and order appointing the special representative may be in the following form:

CAPTION	PETITION FOR APPOINTMENT
OF CASE	OF SPECIAL REPRESENTATIVE
	UNDER RCW 11.96A.250

The undersigned petitioner petitions the court for the appointment of a special representative in accordance with RCW 11.96A.250 and shows the court as follows:

1. Petitioner. Petitioner . . . [is the qualified and presently acting (personal representative) (trustee) of the above (estate) (trust) having been named (personal representative) (trustee) under (describe will and reference probate order or describe trust instrument)] or [is the (describe relationship of the petitioner to the party to be represented or to the matter at issue)].

2. Matter. A question concerning . . . has arisen as to (describe issue, for example: Related to interpretation, construction, administration, distribution). The issue is a matter as defined in RCW 11.96A.030 and is appropriate for determination under RCW 11.96A.210 through 11.96A.250.

3. Party/Parties to be Represented. This matter involves (include description of asset(s) and related beneficiaries and/or interested parties). Resolution of this matter will require the involvement of (name of person or class of persons), who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown).

4. Special Representative. The nominated special representative . . . is a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The nominated special representative does not have an interest in the matter and is not related to any person interested in the matter. The nominated special representative is willing to serve. The petitioner has no reason to believe that the nominated special representative will not act in an independent and prudent manner and in the best interests of the represented parties. (It is recommended that the petitioner also include information specifying the particular skills of the nominated special representative that relate to the matter in issue.)

5. Resolution. Petitioner desires to achieve a resolution of the questions that have arisen in this matter. Petitioner believes that proceeding in accordance with the procedures permitted under RCW 11.96A.210 through 11.96A.250 would be in the best interests of the parties, including the party requiring a special representative.

6. Request of Court. Petitioner requests that an attorney licensed to practice in the State of Washington,

(OR)

. . . . an individual with special skill or training in the administration of estates or trusts

be appointed special representative for . . . (describe party or parties being represented), who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown), as provided under RCW 11.96A.250.

DATED this . . . day of ,

.
(Petitioner)

VERIFICATION

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED, (~~20--~~) (year), at, Washington.

.
(Petitioner or other person
having knowledge)

CAPTION PETITION FOR APPOINTMENT
OF CASE OF SPECIAL REPRESENTATIVE
 UNDER RCW 11.96A.250

THIS MATTER having come on for hearing before this Court on Petition for Appointment of Special Representative filed herein, and it appearing that it would be in the best interests of the parties related to the matter described in the Petition to appoint a special representative to address the issues that have arisen

in the matter and the Court finding that the facts stated in the Petition are true, now, therefore,

IT IS ORDERED that . . . is appointed under RCW 11.96A.250 as special representative (describe party or parties being represented) who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown), to represent their respective interests in the matter as provided in RCW 11.96A.250. The special representative shall be discharged of responsibility with respect to the matter as provided in RCW 11.96A.250. The special representative is discharged of responsibility with respect to the matter at such time as a written agreement is executed resolving the present issues, all as provided in that statute, or if an agreement is not reached within six months from entry of this Order, the special representative appointed under this Order is discharged of responsibility, subject to subsequent reappointment under RCW 11.96A.250.

DONE IN OPEN COURT this . . . day of

.....
JUDGE/COURT COMMISSIONER

(2) Upon appointment by the court, the special representative must file a certification made under penalty of perjury in accordance with ((RCW 9A.72.085)) chapter 5.50 RCW that he or she (a) is not interested in the matter; (b) is not related to any person interested in the matter; (c) is willing to serve; and (d) will act independently, prudently, and in the best interests of the represented parties.

(3) The special representative must be a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The special representative may not have an interest in the matter, and may not be related to a person interested in the matter. The special representative is entitled to reasonable compensation for services that must be paid from the principal of an asset involved in the matter.

(4) The special representative is discharged from any responsibility and will have no further duties with respect to the matter or with respect to any party, on the earlier of: (a) The expiration of six months from the date the special representative was appointed unless the order appointing the special representative provides otherwise, or (b) the execution of the written agreement by all parties or their virtual representatives. Any action against a special representative must be brought within the time limits provided by RCW 11.96A.070(3)(c)(i).

Sec. 13. RCW 18.104.093 and 1993 c 387 s 13 are each amended to read as follows:

The department may issue a water well construction operator's training license if the person:

- (1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;
- (2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;
- (3) Has passed a written examination as provided for in RCW 18.104.080;

(4) Has passed an on-site examination by the department; and

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in (~~RCW 9A.72.085~~) chapter 5.50 RCW, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a water well construction operator's training license may operate a drilling rig without the direct supervision of a licensed operator if a licensed operator is available by radio, telephone, or other means of communication.

Sec. 14. RCW 18.104.097 and 1993 c 387 s 15 are each amended to read as follows:

The department may issue a resource protection well operator's training license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080;

(4) Has passed an on-site examination by the department; and

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in (~~RCW 9A.72.085~~) chapter 5.50 RCW, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a resource protection well construction operator's training license may operate a drilling rig without direct supervision of a licensed operator if a licensed operator is accessible by radio, telephone, or other means of communication.

Sec. 15. RCW 39.04.350 and 2018 c 243 s 1 are each amended to read as follows:

(1) Before award of a public works contract, a bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:

(a) At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;

(b) Have a current state unified business identifier number;

(c) If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;

(d) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3);

(e) If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside

their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;

(f) Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW. The bidder must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. The department, in consultation with the prevailing wage advisory committee, must determine the length of the training. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection. The department of labor and industries must keep records of entities that have satisfied the training requirement or are exempt and make the records available on its web site. Responsible parties may rely on the records made available by the department regarding satisfaction of the training requirement or exemption; and

(g) Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.

(2) Before award of a public works contract, a bidder shall submit to the contracting agency a signed statement in accordance with ~~((RCW 9A.72.085))~~ chapter 5.50 RCW verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of subsection (1)(g) of this section. A contracting agency may award a contract in reasonable reliance upon such a sworn statement.

(3) In addition to the bidder responsibility criteria in subsection (1) of this section, the state or municipality may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet.

(a) Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadline for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents.

(b) In a timely manner before the bid submittal deadline, a potential bidder may request that the state or municipality modify the supplemental criteria. The state or municipality must evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the state or municipality must issue an addendum to the bidding documents identifying the new criteria.

(c) If the bidder fails to supply information requested concerning responsibility within the time and manner specified in the bid documents, the state or municipality may base its determination of responsibility upon any available information related to the supplemental criteria or may find the bidder not responsible.

(d) If the state or municipality determines a bidder to be not responsible, the state or municipality must provide, in writing, the reasons for the determination.

The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the state or municipality. The state or municipality must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the state or municipality may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

(4) The capital projects advisory review board created in RCW 39.10.220 shall develop suggested guidelines to assist the state and municipalities in developing supplemental bidder responsibility criteria. The guidelines must be posted on the board's web site.

Sec. 16. RCW 39.26.160 and 2017 c 258 s 3 are each amended to read as follows:

(1)(a) After bids that are submitted in response to a competitive solicitation process are reviewed by the awarding agency, the awarding agency may:

- (i) Reject all bids and rebid or cancel the competitive solicitation;
- (ii) Request best and final offers from responsive and responsible bidders;

or

(iii) Award the purchase or contract to the lowest responsive and responsible bidder.

(b) The agency may award one or more contracts from a competitive solicitation.

(2) In determining whether the bidder is a responsible bidder, the agency must consider the following elements:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Whether, within the three-year period immediately preceding the date of the bid solicitation, the bidder has been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW; and

(g) Such other information as may be secured having a bearing on the decision to award the contract.

(3) In determining the lowest responsive and responsible bidder, an agency may consider best value criteria, including but not limited to:

(a) Whether the bid satisfies the needs of the state as specified in the solicitation documents;

(b) Whether the bid encourages diverse contractor participation;

(c) Whether the bid provides competitive pricing, economies, and efficiencies;

(d) Whether the bid considers human health and environmental impacts;

(e) Whether the bid appropriately weighs cost and noncost considerations; and

(f) Life-cycle cost.

(4) The solicitation document must clearly set forth the requirements and criteria that the agency will apply in evaluating bid submissions. Before award of a contract, a bidder shall submit to the contracting agency a signed statement in accordance with (~~RCW 9A.72.085~~) chapter 5.50 RCW verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of subsection (2)(f) of this section. A contracting agency may award a contract in reasonable reliance upon such a sworn statement.

(5) The awarding agency may at its discretion reject the bid of any contractor who has failed to perform satisfactorily on a previous contract with the state.

(6) After reviewing all bid submissions, an agency may enter into negotiations with the lowest responsive and responsible bidder in order to determine if the bid may be improved. An agency may not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) The procuring agency must enter into the state's enterprise vendor registration and bid notification system the name of each bidder and an indication as to the successful bidder.

Sec. 17. RCW 46.09.320 and 2016 c 84 s 2 are each amended to read as follows:

(1) The application for a certificate of title of an off-road vehicle must be made by the owner or owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the off-road vehicle, including make, model, vehicle identification number or engine serial number if no vehicle identification number exists, type of body, and model year of the vehicle;

(b) The name and address of the person who is the registered owner of the off-road vehicle and, if the off-road vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The application for a certificate of title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under (~~RCW 9A.72.085~~) chapter 5.50 RCW.

(3) The owner must pay the fee established under RCW 46.17.100.

(4) Issuance of the certificate of title does not qualify the off-road vehicle for registration under chapter 46.16A RCW.

Sec. 18. RCW 46.12.530 and 2017 c 147 s 3 are each amended to read as follows:

(1) The application for a certificate of title of a vehicle must be made by the owner or owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The department may require additional information and a physical examination of the vehicle or of any class of vehicles, or either.

(3) The application for a certificate of title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under (~~RCW 9A.72.085~~) chapter 5.50 RCW. The department shall keep the application in the original, computer, or photostatic form.

(4) The application for an original certificate of title must be accompanied by:

(a) A draft, money order, certified bank check, or cash for all fees and taxes due for the application for certificate of title; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(5) Once issued, a certificate of title is not subject to renewal.

(6) Whenever any person, after applying for or receiving a certificate of title, moves from the address named in the application or in the certificate of title issued to him or her, or changes his or her name of record, the person shall, within ten days thereafter, notify the department of the name or address change as provided in RCW 46.08.195.

Sec. 19. RCW 46.12.555 and 2014 c 12 s 1 are each amended to read as follows:

(1) The application for a quick title of a vehicle must be submitted by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle, when required;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under (~~RCW 9A.72.085~~) chapter 5.50 RCW. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under RCW 46.17.160; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) The quick title process authorized under this section may not be used to obtain the first title issued to a vehicle previously designated as a salvage vehicle as defined in RCW 46.04.514.

(7) A subagent may process a quick title under this section in accordance with rules adopted by the department.

Sec. 20. RCW 46.16A.435 and 2011 c 121 s 3 are each amended to read as follows:

(1) The department shall establish a declaration subject to the requirements of (~~RCW 9A.72.085~~) chapter 5.50 RCW, which must be submitted by an off-road motorcycle owner when applying for on-road registration of the off-road motorcycle. In order to be registered for on-road use, an off-road motorcycle must travel on two wheels with a seat designed to be straddled by the operator and with handlebar-type steering control.

(2) Registration for on-road use of an off-road motorcycle is prohibited for dune buggies, snowmobiles, trimobiles, mopeds, pocket bikes, motor vehicles registered by the department, side-by-sides, utility vehicles, grey-market vehicles, off-road three-wheeled vehicles, and, as determined by the department, any other vehicles that were not originally certified by the manufacturer for use on public roads.

(3) The declaration must include the following:

(a) Documentation of a safety inspection to be completed by a licensed motorcycle dealer or repair shop in the state of Washington that must outline the vehicle information and certify that all off-road to on-road motorcycle equipment as required under RCW 46.61.705 meets the requirements outlined in state and federal law;

(b) Documentation that the licensed motorcycle dealer or repair shop did not charge more than one hundred dollars per safety inspection and that the entire safety inspection fee is paid directly and only to the licensed motorcycle dealer or repair shop;

(c) A statement that the licensed motorcycle dealer or repair shop is entitled to the full amount charged for the motorcycle safety inspection;

(d) A vehicle identification number verification that must be completed by a licensed motorcycle dealer or repair shop in the state of Washington; and

(e) A release signed by the owner of the off-road motorcycle and verified by the department, county auditor or other agent, or subagent appointed by the director that releases the state from any liability and outlines that the owner understands that the original off-road motorcycle was not manufactured for on-road use and that it has been modified for use on public roads.

(4) The department must track off-road motorcycles in a separate registration category for reporting purposes.

Sec. 21. RCW 46.20.308 and 2016 c 203 s 15 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath for the purpose of determining the alcohol concentration in his or her breath if arrested for any offense where, at the time of the arrest, the

arresting officer has reasonable grounds to believe the person has been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. Prior to administering a breath test pursuant to this section, the officer shall inform the person of his or her right under this section to refuse the breath test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if:

(i) The driver is age twenty-one or over and the test indicates either that the alcohol concentration of the driver's breath is 0.08 or more; or

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath is 0.02 or more; or

(iii) The driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested exercises the right, granted herein, by refusing upon the request of a law enforcement officer to submit to a test or tests of his or her breath, no test shall be given except as otherwise authorized by law.

(4) Nothing in subsection (1), (2), or (3) of this section precludes a law enforcement officer from obtaining a person's blood to test for alcohol, marijuana, or any drug, pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law. Any blood drawn for the purpose of determining the person's alcohol, marijuana levels, or any drug, is drawn pursuant to this section when the officer has reasonable grounds to believe that the person is in physical control or driving a vehicle under the influence or in violation of RCW 46.61.503.

(5) If, after arrest and after any other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more, or the THC concentration of the person's blood is 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood is 0.02 or more, or the THC

concentration of the person's blood is above 0.00, if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (6) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (7) of this section;

(c) Serve notice in writing that the license or permit, if any, is a temporary license that is valid for thirty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(d) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by ((RCW 9A.72.085)) chapter 5.50 RCW that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol or THC concentration in violation of RCW 46.61.503;

(ii) That after receipt of any applicable warnings required by subsection (2) of this section the person refused to submit to a test of his or her breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(6) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by ((RCW 9A.72.085)) chapter 5.50 RCW under subsection (5)(d) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning thirty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first.

(7) A person receiving notification under subsection (5)(b) of this section may, within seven days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of three

hundred seventy-five dollars as part of the request. If the request is mailed, it must be postmarked within seven days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required three hundred seventy-five dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required three hundred seventy-five dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within thirty days, excluding Saturdays, Sundays, and legal holidays, following the date of timely receipt of such request for a formal hearing before the department or thirty days, excluding Saturdays, Sundays, and legal holidays following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license under subsection (5) of this section extended, if the person is otherwise eligible for licensing. Unless otherwise agreed to by the department and the person, the department must give five days notice of the hearing to the person. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person was age twenty-one or over at the time of the arrest, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person was under the age of twenty-one at the time of the arrest. Where a person is found to be in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was under the age of twenty-one at the time of the arrest and was in physical control of a motor vehicle while having alcohol in his or her system in a concentration of 0.02 or THC concentration above 0.00, the person may petition the hearing officer to apply the affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The driver has the burden to

prove the affirmative defense by a preponderance of the evidence. The sworn report or report under a declaration authorized by (~~RCW 9A.72.085~~) chapter 5.50 RCW submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by (~~RCW 9A.72.085~~) chapter 5.50 RCW of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(8) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant

will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(9)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (6) of this section, other than as a result of a breath test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (6) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license under subsection (5) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(10) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Sec. 22. RCW 46.20.720 and 2017 c 336 s 5 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The department must also give the person a day-for-day credit for any time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates, other than those subject to the employer exemption under subsection (6) of this section.

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

(6) **Employer exemption.** (a) Except as provided in (b) of this subsection, the installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to ((RCW 9A.72.085)) chapter 5.50 RCW from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

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

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

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

Sec. 23. RCW 47.68.250 and 2017 3rd sp.s. c 25 s 44 are each amended to read as follows:

(1) Every aircraft must be registered with the department for each calendar year in which the aircraft is operated or is based within this state. A fee of fifteen dollars is charged for each such registration and each annual renewal thereof.

(2) Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment of the registration fee required by this section are the only requisites for registration of an aircraft under this section.

(3) The registration fee imposed by this section is payable to and collected by the secretary. The fee for any calendar year must be paid during the month of January, and must be collected by the secretary at the time of the collection by him or her of the excise tax. If the secretary is satisfied that the requirements for registration of the aircraft have been met, he or she must issue to the owner of the aircraft a certificate of registration therefor. The secretary must pay to the state treasurer the registration fees collected under this section, which registration fees must be credited to the aeronautics account.

(4) It is not necessary for the registrant to provide the secretary with originals or copies of federal certificates, permits, ratings, or licenses. The secretary must issue certificates of registration, or such other evidences of registration or payment of fees as he or she may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

(5) The provisions of this section do not apply to:

(a) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(b) An aircraft registered under the laws of a foreign country;

(c) An aircraft that is owned by a nonresident if:

(i) The aircraft remains in this state or is based in this state, or both, for a period less than ninety days; or

(ii) The aircraft is a large private airplane as defined in RCW 82.08.215 and remains in this state for a period of ninety days or longer, but only when:

(A) The airplane is in this state exclusively for the purpose of repairs, alterations, or reconstruction, including any flight testing related to the repairs, alterations, or reconstruction, or for the purpose of continual storage of not less than one full calendar year;

(B) An employee of the facility providing these services is on board the airplane during any flight testing; and

(C) Within ninety days of the date the airplane first arrived in this state during the calendar year, the nonresident files a written statement with the department indicating that the airplane is exempt from registration under this subsection (5)(c)(ii). The written statement must be filed in a form and manner prescribed by the department and must include such information as the department requires. The department may require additional periodic verification that the airplane remains exempt from registration under this subsection (5)(c)(ii) and that written statements conform with the provisions of ((RCW 9A.72.085)) chapter 5.50 RCW;

(d) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(e) An aircraft owned by the commercial manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(f) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW; and

(g) An aircraft based within the state that is in an unairworthy condition, is not operated within the registration period, and has obtained a written exemption issued by the secretary.

(6) The secretary must be notified within thirty days of any change in ownership of a registered aircraft. The notification must contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the secretary, the registration of that aircraft may be canceled by the secretary,

subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner.

(7) A municipality or port district that owns, operates, or leases an airport, as defined in RCW 47.68.020, with the intent to operate, must require from an aircraft owner proof of aircraft registration as a condition of leasing or selling tiedown or hangar space for an aircraft. It is the responsibility of the lessee or purchaser to register the aircraft. Proof of registration must be provided according to the following schedule:

(a) For the purchase of tiedown or hangar space, the municipality or port district must allow the purchaser thirty days from the date of the application for purchase to produce proof of aircraft registration.

(b) For the lease of tiedown or hangar space that extends thirty days or more, the municipality or port district must allow the lessee thirty days to produce proof of aircraft registration from the date of the application for lease of tiedown or hangar space.

(c) For the lease of tiedown or hangar space that extends less than thirty days, the municipality or port district must allow the lessee to produce proof of aircraft registration at any point prior to the final day of the lease.

(8) The airport must work with the aviation division to assist in its efforts to register aircraft by providing information about based aircraft on an annual basis as requested by the division.

Sec. 24. RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of ((RCW 9A.72.085)) 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.

(2) "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.

(3) "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 thirty 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.

(4) "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.

(5) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(6) "Distressed home" has the same meaning as in RCW 61.34.020.

(7) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(8) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(9) "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.

(10) "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.

(11) "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.

(12) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(13) "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 thirty 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.

(14) "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.

(15) "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.

(16) "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.

(17) "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.

(18) "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.

(19) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(20) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(21) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(22) "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.

(23) "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.

(24) "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.

(25) "Rental agreement" 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.

(26) 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.

(27) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(28) "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.

(29) "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.

(30) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

Sec. 25. RCW 71.09.070 and 2015 c 278 s 1 are each amended to read as follows:

(1) Each person committed under this chapter shall have a current examination of his or her mental condition made by the department at least once every year.

(2) The evaluator must prepare a report that includes consideration of whether:

(a) The committed person currently meets the definition of a sexually violent predator;

(b) Conditional release to a less restrictive alternative is in the best interest of the person; and

(c) Conditions can be imposed that would adequately protect the community.

(3) The department, on request of the committed person, shall allow a record of the annual review interview to be preserved by audio recording and made available to the committed person.

(4) The evaluator must indicate in the report whether the committed person participated in the interview and examination.

(5) The department shall file the report with the court that committed the person under this chapter. The report shall be in the form of a declaration or certification in compliance with the requirements of ((RCW 9A.72.085)) chapter 5.50 RCW and shall be prepared by a professionally qualified person as defined by rules adopted by the secretary. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person and his or her counsel.

(6)(a) The committed person may retain, or if he or she is indigent and so requests, the court may appoint a qualified expert or a professional person to examine him or her, and such expert or professional person shall have access to all records concerning the person.

(b) Any report prepared by the expert or professional person and any expert testimony on the committed person's behalf is not admissible in a proceeding pursuant to RCW 71.09.090, unless the committed person participated in the most recent interview and evaluation completed by the department.

(7) If an unconditional release trial is ordered pursuant to RCW 71.09.090, this section is suspended until the completion of that trial. If the individual is found either by jury or the court to continue to meet the definition of a sexually violent predator, the department must conduct an examination pursuant to this section no later than one year after the date of the order finding that the individual continues to be a sexually violent predator. The examination must comply with the requirements of this section.

(8) During any period of confinement pursuant to a criminal conviction, or for any period of detention awaiting trial on criminal charges, this section is suspended. Upon the return of the person committed under this chapter to the custody of the department, the department shall initiate an examination of the person's mental condition. The examination must comply with the requirements of subsection (1) of this section.

Sec. 26. RCW 81.84.020 and 2007 c 234 s 93 are each amended to read as follows:

(1) Upon the filing of an application, the commission shall give reasonable notice to the department, affected cities, counties, and public transportation benefit areas and any common carrier which might be adversely affected, of the time and place for hearing on such application. The commission may, after notice and an opportunity for a hearing, issue the certificate as prayed for, or refuse to issue it, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate any terms and conditions as in its judgment the public convenience and necessity may require; but the commission may not grant a certificate to operate between districts or into any territory prohibited by RCW 47.60.120 or already served by an existing certificate holder, unless the existing certificate holder has failed or refused to furnish reasonable and adequate service, has failed to provide the service described in its certificate or tariffs after the time allowed to initiate service has elapsed, or has not objected to the issuance of the certificate as prayed for.

(2) Before issuing a certificate, the commission shall determine that the applicant has the financial resources to operate the proposed service for at least

twelve months, based upon the submission by the applicant of a pro forma financial statement of operations. Issuance of a certificate must be determined upon, but not limited to, the following factors: Ridership and revenue forecasts; the cost of service for the proposed operation; an estimate of the cost of the assets to be used in providing the service; a statement of the total assets on hand of the applicant that will be expended on the proposed operation; and a statement of prior experience, if any, in such field by the applicant. The documentation required of the applicant under this section must comply with the provisions of ((RCW 9A.72.085)) chapter 5.50 RCW.

(3) In granting a certificate for passenger-only ferries and determining what conditions to place on the certificate, the commission shall consider and give substantial weight to the effect of its decisions on public agencies operating, or eligible to operate, passenger-only ferry service.

(4) Until July 1, 2007, the commission shall not accept or consider an application for passenger-only ferry service serving any county in the Puget Sound area with a population of over one million people. Applications for passenger-only ferry service serving any county in the Puget Sound area with a population of over one million pending before the commission as of May 9, 2005, must be held in abeyance and not be considered before July 1, 2007.

Sec. 27. RCW 88.02.540 and 2011 c 326 s 4 are each amended to read as follows:

(1) The application for a quick title of a vessel must be made by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vessel, including make, model, hull identification number, series, and body;

(b) The name and address of the person who is to be the registered owner of the vessel and, if the vessel is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under ((RCW 9A.72.085)) chapter 5.50 RCW. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under RCW 88.02.640(1); and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) A subagent may process a quick title under this section only after (a) the department has instituted a process in which blank certificates of title can be inventoried; (b) the county auditor of the county in which the subagent is located has processed quick titles for a minimum of six months; and (c) the county auditor approves a request from a subagent in its county to process quick titles.

NEW SECTION. **Sec. 28.** Section 23 of this act expires July 1, 2021.

Passed by the Senate April 19, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 233

[Second Substitute Senate Bill 5021]

DEPARTMENT OF CORRECTIONS EMPLOYEES--INTEREST ARBITRATION

AN ACT Relating to granting interest arbitration to certain department of corrections employees; adding a new section to chapter 41.80 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 41.80 RCW to read as follows:

(1) In order to maintain dedicated and uninterrupted services to the supervision of criminal offenders that are in state correctional facilities and on community supervision, it is the legislature's intent to grant certain employees of the department of corrections interest arbitration rights as an alternative means of settling disputes.

(2) This section applies only to employees covered by chapter 41.06 RCW working for the department of corrections, except confidential employees as defined in RCW 41.80.005, members of the Washington management service, internal auditors, and nonsupervisory marine department employees.

(3) Negotiations between the employer and the exclusive bargaining representative of a unit of employees shall be commenced at least five months before submission of the budget to the legislature. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall promptly meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement. A mediator, however, does not have a power of compulsion. The mediator may consider only matters that are subject to bargaining under this chapter.

(4) If an agreement is not reached following a reasonable period of negotiations and mediation, and the director, upon recommendation of the assigned mediator, finds that the parties remain at impasse, then an arbitrator must be appointed to resolve the dispute. The issues for determination by the arbitrator must be limited to the issues certified by the executive director.

(5) Within ten working days after the first Monday in September of every odd-numbered year, the governor or the governor's designee and the bargaining representatives for any bargaining units covered by this section shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. The parties will select an arbitrator by mutual agreement or by alternatively striking names from

a regional list of seven qualified arbitrators provided by the federal mediation and conciliation service.

(a) The fees and expenses of the arbitrator, the court reporter, if any, and the cost of the hearing room, if any, will be shared equally between the parties. Each party is responsible for the costs of its attorneys, representatives and witnesses, and all other costs related to the development and presentation of their case.

(b) Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for a potential hearing between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates, absent an agreement to the contrary.

(c) The parties shall execute a written agreement before December 15th of the odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration.

(d)(i) The arbitrator must hold a hearing and provide reasonable notice of the hearing to the parties to the dispute. The hearing must be informal and each party has the opportunity to present evidence and make arguments. The arbitrator may not present the case for a party to the proceedings.

(ii) The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the arbitrator may be received in evidence. A recording of the proceedings must be taken.

(iii) The arbitrator may administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents deemed by the arbitrator to be material to a just determination of the issues in dispute. If a person refuses to obey a subpoena issued by the arbitrator, or refuses to be sworn or to make an affirmation to testify, or a witness, party, or attorney for a party is guilty of contempt while in attendance at a hearing, the arbitrator may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court may issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof.

(6) The arbitrator may consider only matters that are subject to bargaining under RCW 41.80.020(1), and may not consider those subjects listed under RCW 41.80.020 (2) and (3) and 41.80.040.

(a) In making its determination, the arbitrator shall take into consideration the following factors:

(i) The financial ability of the department of corrections to pay for the compensation and benefit provisions of a collective bargaining agreement;

(ii) The constitutional and statutory authority of the employer;

(iii) Stipulations of the parties;

(iv) Comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like state government employers of similar size in the western United States;

(v) The ability of the department of corrections to retain employees;

(vi) The overall compensation presently received by department of corrections employees, including direct wage compensation, vacations, holidays,

and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;

(vii) Changes in any of the factors listed in this subsection during the pendency of the proceedings; and

(viii) Such other factors which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.80.020(1).

(b) The decision of an arbitrator under this section is subject to RCW 41.80.010(3).

(7) During the pendency of the proceedings before the arbitrator, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his or her rights or position under chapter 41.56 RCW.

(8)(a) If the representative of either or both the employees and the state refuses to submit to the procedures set forth in subsections (3), (4), and (5) of this section, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and the court may issue an appropriate order. A failure to obey the order may be punished by the court as a contempt thereof.

(b) A decision of the arbitrator is final and binding on the parties, and may be enforced at the instance of either party, the arbitrator, or the commission in the superior court for the county where the dispute arose. However, the decision of the arbitrator is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to the compensation and fringe benefit provision of an interest arbitration award, the provisions are not binding on the state or department of corrections.

(9) Subject to the provisions of this section, the parties shall follow the commission's procedures for interest arbitration.

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 19, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 234

[Senate Bill 5022]

HIGHER EDUCATION UNIFORMED PERSONNEL--BINDING INTEREST ARBITRATION

AN ACT Relating to granting binding interest arbitration rights to certain higher education uniformed personnel; amending RCW 41.80.005 and 41.80.010; adding new sections to chapter 41.80 RCW; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each amended to read as follows:

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

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW, except:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

(15) "Uniformed personnel" means duly sworn police officers employed as members of a police force established pursuant to RCW 28B.10.550.

***Sec. 2.** RCW 41.80.010 and 2017 3rd sp.s. c 23 s 3 are each amended to read as follows:

(1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a) If an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under RCW 41.80.070, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the

agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of the office of financial management as being feasible financially for the state or reflects the decision of an arbitration panel reached under section 5 of this act.

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 41.80.090.

(4)(a)(i) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities, colleges, or community colleges or a designee chosen by the board to negotiate on its behalf.

(ii) A governing board of a university or college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section, except that:

(A) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of a university or college that the representative represents; or

(B) If the parties mutually agree, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of more than one university or college that the representative represents.

(iii) A governing board of a community college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(b) Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations.

(c)(i) In the case of bargaining agreements reached between institutions of higher education other than the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in (c)(iii) of this subsection.

(ii) In the case of bargaining agreements reached between the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of a bargaining agreement, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in this subsection (4)(c)(ii) and as provided in (c)(iii) of this subsection.

(A) If appropriations of less than ten thousand dollars are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered.

(B) If appropriations of ten thousand dollars or more are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request:

(I) Has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered; and

(II) Has been certified by the director of the office of financial management as being feasible financially for the state.

(C) If the director of the office of financial management does not certify a request under (c)(ii)(B) of this subsection as being feasible financially for the state, the parties shall enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement necessary to address the absence of those requested funds. The legislature may act upon the compensation and fringe benefit provisions of the modified collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(iii) In the case of a bargaining unit of employees of institutions of higher education in which the exclusive bargaining representative is certified during or after the conclusion of a legislative session, the legislature may act upon the compensation and fringe benefit provisions of the unit's initial collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(5) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(6) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration

date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(7) For the 2013-2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee shall be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013-2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating appropriations act by the sitting legislature.

(8)(a) For the 2015-2017 fiscal biennium, the governor may request funds to implement:

(i) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the service employees international union healthcare 1199nw, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(ii) Unilaterally implemented modifications to collective bargaining agreements, resulting from the employer being prohibited from negotiating with an exclusive bargaining representative due to a pending representation petition, necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(iii) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the union of physicians of Washington, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees. If the memorandum of understanding submitted to the legislature as part of the governor's budget document is rejected by the legislature, and the parties reach a new memorandum of understanding by June 30, 2016, within the funds, conditions, and limitations provided in section 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of understanding shall be considered approved by the legislature and may be retroactive to December 1, 2015.

(iv) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the teamsters union local 117, an exclusive bargaining representative, for salary adjustments for the state employee job classifications of psychiatrist, psychiatric social worker, and psychologist.

(b) For the 2015-2017 fiscal biennium, the legislature may act upon the request for funds for modifications to a 2015-2017 collective bargaining agreement under (a)(i), (ii), (iii), and (iv) of this subsection if funds are

requested by the governor before final legislative action on the supplemental omnibus appropriations act by the sitting legislature.

(c) The request for funding made under this subsection and any action by the legislature taken pursuant to this subsection is limited to the modifications described in this subsection and may not otherwise affect the original terms of the 2015-2017 collective bargaining agreement.

(d) Subsection (3)(a) and (b) of this section (~~(4)~~) does not apply to requests for funding made pursuant to this subsection.

**Sec. 2 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 3. A new section is added to chapter 41.80 RCW to read as follows:

The intent and purpose of sections 4 through 10 of this act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; and that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

NEW SECTION. Sec. 4. A new section is added to chapter 41.80 RCW to read as follows:

(1) Negotiations between the employer and the exclusive bargaining representative of a unit of uniformed personnel shall be commenced at least five months prior to the submission of the budget to the legislature. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall promptly meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement. A mediator, however, does not have a power of compulsion. The mediator may consider only matters that are subject to bargaining under this chapter.

(2) If an agreement has not been reached following a reasonable period of negotiations and mediation, and the executive director, upon the recommendation of the assigned mediator, finds that the parties remain at impasse, then the executive director shall certify the issues for interest arbitration. The issues for determination by the arbitration panel shall be limited to the issues certified by the executive director.

NEW SECTION. Sec. 5. A new section is added to chapter 41.80 RCW to read as follows:

(1) Within ten working days after the first Monday in September of every odd-numbered year, the state's bargaining representative and the exclusive bargaining representative for the appropriate bargaining unit shall attempt to agree on an interest arbitration panel consisting of three members to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. Each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to

choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chair of the panel: (a) By mutual consent, the two appointed members may jointly request the commission to, and the commission shall, appoint a third member within two days of such a request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (b) either party may apply to the commission, the federal mediation and conciliation service, or the American arbitration association to provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties.

(2) Immediately upon selecting an interest arbitration panel, the parties shall cooperate to reserve dates with the arbitration panel for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the names of the members of the arbitration panel and the dates reserved for bargaining and arbitration. This subsection imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(3) If the parties are not successful in negotiating a comprehensive collective bargaining agreement, a hearing shall be held. The hearing shall be informal and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chair of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held under this section, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof. The hearing conducted by the arbitration panel shall be concluded within twenty-five days following the selection or designation of the neutral chair of the arbitration panel, unless the parties agree to a longer period.

(4) The neutral chair shall consult with the other members of the arbitration panel, and, within thirty days following the conclusion of the hearing, the neutral chair shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on

the commission, on each of the other members of the arbitration panel, and on each of the parties to the dispute.

(5) Except as provided in this subsection, the written determination shall be final and binding upon both parties.

(a) The written determination is subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

(b) The written determination is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefits of an arbitrated collective bargaining agreement, is not binding on the state.

(6) The arbitration panel may consider only matters that are subject to bargaining under this chapter.

NEW SECTION. Sec. 6. A new section is added to chapter 41.80 RCW to read as follows:

An interest arbitration panel created pursuant to section 5 of this act, in the performance of its duties under this chapter, exercises a state function and is, for the purposes of this chapter, a state agency. Chapter 34.05 RCW does not apply to proceedings before an interest arbitration panel under this chapter.

NEW SECTION. Sec. 7. A new section is added to chapter 41.80 RCW to read as follows:

In making its determination, the panel shall be mindful of the legislative purpose enumerated in section 3 of this act and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(1) The constitutional and statutory authority of the employer;

(2) Stipulations of the parties;

(3) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(4) Changes in any of the circumstances under subsections (1) through (3) of this section during the pendency of the proceedings; and

(5) Such other factors, not confined to the factors under subsections (1) through (4) of this section, that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 41.80 RCW to read as follows:

During the pendency of the proceedings before the arbitration panel, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under sections 4 through 10 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 41.80 RCW to read as follows:

(1) If the representative of either or both the uniformed personnel and the employer refuse to submit to the procedures set forth in sections 4 and 5 of this

act, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof.

(2) Except as provided in this subsection, a decision of the arbitration panel shall be final and binding on the parties, and may be enforced at the instance of either party, the arbitration panel or the commission in the superior court for the county where the dispute arose.

(a) The written determination is subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

(b) The written determination is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefits of an arbitrated collective bargaining agreement, is not binding on the state.

NEW SECTION. Sec. 10. A new section is added to chapter 41.80 RCW to read as follows:

The right of uniformed personnel to engage in any strike, work slowdown, or stoppage is not granted. An employee organization recognized as the exclusive bargaining representative of uniformed personnel subject to this chapter that willfully disobeys a lawful order of enforcement by a superior court pursuant to this section and section 9 of this act, or willfully offers resistance to such order, whether by strike or otherwise, is in contempt of court as provided in chapter 7.21 RCW. An employer that willfully disobeys a lawful order of enforcement by a superior court pursuant to section 9 of this act or willfully offers resistance to such order is in contempt of court as provided in chapter 7.21 RCW.

NEW SECTION. Sec. 11. A new section is added to chapter 41.80 RCW to read as follows:

(1) By January 1, 2020, the public employment relations commission shall review the appropriateness of the bargaining units that consist of or include uniformed personnel and exist on the effective date of this section. If the commission determines that an existing bargaining unit is not appropriate pursuant to RCW 41.80.070, the commission may modify the unit.

(2) The exclusive bargaining representatives certified to represent the bargaining units that consist of or include uniformed personnel and exist on the effective date of this section shall continue as the exclusive bargaining representative without the necessity of an election as of the effective date of this section. However, there may be proceedings concerning representation under this chapter thereafter.

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 19, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 30, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 1, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 2, Senate Bill No. 5022 entitled:

"AN ACT Relating to granting binding interest arbitration rights to certain higher education uniformed personnel."

This bill establishes interest arbitration for uniformed personnel, which is defined as sworn police officers employed as a member of a police force established by state universities, regional universities, or the Evergreen State College. Section 2 amends current law and exempts such arbitration awards from submission to the Office of Financial Management to be certified as financially feasible. This could result in requiring the governor to include funds necessary to implement the award in his/her budget regardless of whether it was financially feasible.

Although I support granting interest arbitration to uniformed personnel, it is important to ensure that any award from interest arbitration must be submitted for certification of financial feasibility before being included in the governor's budget proposal. This check and balance on arbitration awards protects the governor's discretion in developing future budget proposals.

For these reasons I have vetoed Section 2 of Senate Bill No. 5022.

With the exception of Section 2, Senate Bill No. 5022 is approved."

CHAPTER 235

[Engrossed Second Substitute Senate Bill 5223]

ELECTRIC UTILITIES--NET METERING

AN ACT Relating to net metering; amending RCW 80.60.010, 80.60.020, 80.60.030, 80.60.040, and 82.16.090; and adding a new section to chapter 19.27 RCW.

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

Sec. 1. RCW 80.60.010 and 2007 c 323 s 1 are each amended to read as follows:

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

- (1) "Commission" means the utilities and transportation commission.
- (2) "Customer-generator" means a user of a net metering system.
- (3) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.
- (4) "Electric cooperative" means a cooperative or association organized under chapter 23.86 or 24.06 RCW.
- (5) "Electric utility" means any electrical company, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility that is engaged in the business of distributing electricity to retail electric customers in the state.
- (6) "Irrigation district" means an irrigation district under chapter 87.03 RCW.
- (7) "Meter aggregation" means the administrative combination of ~~((readings from and))~~ billing ~~((for all meters, regardless of the rate class, on premises owned or leased by a customer-generator located within the service territory of a single electric utility))~~ net energy consumption from a designated net meter and eligible aggregated meter.
- (8) "Municipal electric utility" means a city or town that owns or operates an electric utility authorized by chapter 35.92 RCW.

(9) "Net metering" means measuring the difference between the electricity supplied by an electric utility and the excess electricity generated by a customer-generator's net metering system over the applicable billing period.

(10) "Net metering system" means a fuel cell, a facility that produces electricity and used and useful thermal energy from a common fuel source, or a facility for the production of electrical energy that generates renewable energy, and that:

(a) Has an electrical generating AC capacity of not more than one hundred kilowatts;

(b) Is located on the customer-generator's premises;

(c) Operates in parallel with the electric utility's transmission and distribution facilities and is connected to the electric utility's distribution system; and

(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(11) "Premises" means any residential property, commercial real estate, or lands, owned or leased by a customer-generator within the service area of a single electric utility.

(12) "Port district" means a port district within which an industrial development district has been established as authorized by Title 53 RCW.

(13) "Public utility district" means a district authorized by chapter 54.04 RCW.

(14) "Renewable energy" means energy generated by a facility that uses water, wind, solar energy, or biogas (~~(from animal waste)~~) as a fuel.

(15) "Aggregated meter" means an electric service meter measuring electric energy consumption that is eligible to receive credits under a meter aggregation arrangement as described in RCW 80.60.030.

(16) "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.

(17) "Designated meter" means an electric service meter at the service of a net metering system that is interconnected to the utility distribution system.

(18) "Retail electric customer" includes an individual, organization, group, association, partnership, corporation, agency, unit of state government, or entity that is connected to the electric utility's distribution system and purchases electricity for ultimate consumption and not for resale.

Sec. 2. RCW 80.60.020 and 2007 c 323 s 2 are each amended to read as follows:

(1) An electric utility:

(a) Shall offer to make net metering, pursuant to RCW 80.60.030, available to eligible (~~(customers-generators)~~) customer-generators on a first-come, first-served basis until the (~~(cumulative generating capacity of net metering systems equals 0.25 percent of the utility's peak demand during 1996. On January 1, 2014, the cumulative generating capacity available to net metering systems will equal 0.5 percent of the utility's peak demand during 1996)~~) earlier of either: (i) June 30, 2029; or (ii) the first date upon which the cumulative generating

capacity of net metering systems equals four percent of the utility's peak demand during 1996. Not less than one-half of the utility's 1996 peak demand available for net metering systems shall be reserved for the cumulative generating capacity attributable to net metering systems that generate renewable energy;

(b) Shall allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment:

(i) That the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(ii) How the cost of purchasing and installing an additional meter is to be allocated between the customer-generator and the utility;

(c) Shall charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class, but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment that:

(i) The electric utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these systems; and

(ii) Public policy is best served by imposing these costs on the customer-generator rather than allocating these costs among the utility's entire customer base.

(2) If a production meter and software is required by the electric utility to provide meter aggregation under RCW 80.60.030(4), the customer-generator is responsible for the purchase of the production meter and software.

(3)(a)(i) A consumer-owned utility may develop a standard rate or tariff schedule that deviates from RCW 80.60.030 for eligible customer-generators to take effect at the earlier of either: (A) June 30, 2029; or (B) the first date upon which the cumulative generating capacity of net metering systems equals four percent of the utility's peak demand during 1996.

(ii) An electrical company may submit a filing with the commission to develop a standard tariff schedule that deviates from RCW 80.60.030 for eligible customer-generators. The commission must approve, reject, or approve with conditions a net metering tariff schedule pursuant to this subsection within one year of an electrical company filing. If the commission approves the filing with conditions, the investor-owned utility may choose to accept the tariff schedule with conditions or file a new tariff schedule with the commission.

(b) An approved standard rate or tariff schedule under this subsection applies to any customer-generator subject to an interconnection agreement entered into: (i) After June 30, 2029, or (ii) the first date upon which the cumulative generating capacity of net metering systems pursuant to RCW 80.60.030 equals four percent of the utility's peak demand during 1996, whichever is earlier, unless the commission or governing body determines that a

customer-generator is eligible for net metering under a rate or tariff schedule pursuant to RCW 80.60.030.

(c)(i) A consumer-owned utility must notify the Washington State University extension energy program sixty days in advance of when a standard rate for an eligible customer-generator is first placed on the agenda of the governing body.

(ii) Each electric utility must give notice by July 31, 2020, and semiannually thereafter, to the Washington State University extension energy program of the status of meeting the cumulative generating capacity available to net metering systems pursuant to subsection (1)(a) of this section.

(iii) The Washington State University extension energy program must make available on its web site a list of the following:

(A) Each electric utility's progress on reaching the cumulative generating capacity available to net metering systems pursuant to subsection (1)(a) of this section;

(B) Electric utilities that have provided notice of a rate or tariff schedule under this subsection; and

(C) Electric utilities that have adopted a standard rate or tariff schedule under this subsection.

(d) If the commission does not approve an electrical company's tariff schedule under (a)(ii) of this subsection, the commission may determine the alternative cumulative generating capacity available to net metering systems pursuant to RCW 80.60.030.

(4)(a) An electric utility must continue to credit a customer-generator pursuant to RCW 80.60.030 if:

(i) The customer-generator takes service under net metering prior to the earlier of: (A) June 30, 2029; or (B) the first date upon which the cumulative generating capacity of net metering systems reaches four percent of the utility's peak demand in 1996; and

(ii) The customer-generator's existing interconnection agreement for the net metering system remains valid.

(b) The commission, in the case of electrical companies, and a governing body, in the case of consumer-owned utilities, must determine as part of a standard rate or tariff schedule under this subsection when customer-generators become ineligible for credit pursuant to RCW 80.60.030.

(c) Upon adoption of a standard rate or tariff schedule by the commission or governing body pursuant to subsection (3)(a) of this section, the electric utility is exempt from requirements under subsection (1)(c) of this section and RCW 80.60.030 for new interconnection agreements.

Sec. 3. RCW 80.60.030 and 2007 c 323 s 3 are each amended to read as follows:

Consistent with the other provisions of this chapter, the net energy measurement, billed charges for kilowatt-hour consumption, and credits for excess kilowatt-hour generation by a net metered system, must be calculated in the following manner:

(1) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator's net metering system and fed back to the electric utility during the billing period, the customer-generator shall be billed for the net electricity supplied by the electric utility, in accordance with normal metering practices.

(3) If excess electricity generated by the ~~((customer-generator))~~ net metering system during a billing period exceeds the electricity supplied by the electric utility during the same billing period, the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period, in accordance with RCW 80.60.020; and

(b) Shall be credited for the excess kilowatt-hours generated during the billing period, with ~~((this kilowatt-hour credit))~~ the credit for kilowatt-hours appearing on the bill for the following billing period.

(4) If a customer-generator requests, an electric utility shall provide such a customer-generator meter aggregation.

(a) For a customer-generator~~((s))~~ participating in meter aggregation, credits for kilowatt-hours ~~((credits))~~ earned by ~~((a))~~ the customer-generator's net metering system during the billing period first shall be used to offset electricity supplied by the electric utility at the location of the customer-generator's designated meter.

~~((b))~~ ((Not more than a total of one hundred kilowatts shall be aggregated among all customer-generators participating in a generating facility under this subsection.

~~((c))~~ A customer-generator may aggregate a designated meter with one additional aggregated meter located on the same parcel as the designated meter or a parcel that is contiguous with the parcel where the designated meter is located.

((c)) For the purposes of (b) of this subsection, a parcel is considered contiguous if they share a common property boundary, but may be separated only by a road or rail corridor.

((d)) A retail electric customer who is a customer-generator and receives retail electric service from an electric utility at an aggregated meter must be the same retail electric customer who receives retail electric service from such an electric utility at the designated meter that is located on the premises where such a customer-generator's net metering system is located.

((e)) Credits for excess kilowatt-hours ~~((credits))~~ earned by the net metering system~~((s))~~ at the site of a designated meter during ~~((the same))~~ a billing period~~((s))~~ shall be credited ~~((equally))~~ by the electric utility ~~((to remaining meters located on all premises of a customer-generator))~~ for kilowatt hour charges due at the aggregated meter at the ~~((designated))~~ applicable rate of ~~((each))~~ the aggregated meter.

~~((d))~~ ((f)) If credits generated in any billing period exceed total consumption for that billing period at both meters that are part of an aggregated arrangement, credits are retained pursuant to subsections (3) and (5) of this section.

((g)) Credits carried over from one billing period to the next pursuant to (f) of this subsection must be applied in subsequent billing periods in the same manner described under (a) and (e) of this subsection.

((h)) Meters so aggregated shall not change rate classes due to meter aggregation under this section.

(5) On ~~((April 30th))~~ March 31st of each calendar year, any remaining unused ~~((kilowatt-hour credit))~~ credits for kilowatt-hours accumulated during the previous year shall be granted to the electric utility, without any compensation to the customer-generator.

(6) Nothing in this section prohibits a utility from allowing aggregation under terms different than the requirements of subsection (4) of this section if a customer-generator has an existing arrangement for meter aggregation in effect or a customer submits a written request for aggregation on or before July 1, 2019.

(7) Nothing in this section prohibits the owner of multifamily residential facility from installing a net metering system as defined in RCW 80.60.010 assigned to a single designated meter located on the premises of the multifamily residential facility where the tenants are not individually metered customers of the utility and distributing any benefits of the net metering to tenants of the facility where the net metering system is located. The utility must measure the net energy produced and provide credit to the single designated meter to which the net metering system is assigned in accordance with subsections (1) through (3) of this section or under the terms of a standard rate or tariff schedule established under RCW 80.60.020(3). The distribution of benefits to tenants of such a system, if any, is the responsibility of the owner of the net metering system and not the responsibility of the utility.

Sec. 4. RCW 80.60.040 and 2006 c 201 s 4 are each amended to read as follows:

(1) A net metering system used by a customer-generator shall include, at the customer-generator's own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the national electrical code, national electrical safety code, the institute of electrical and electronics engineers, and underwriters laboratories.

(2) The commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, after appropriate notice and opportunity for comment, may adopt by regulation additional safety, power quality, and interconnection requirements for customer-generators, including limitations on the number of customer-generators and total capacity of net metering systems that may be interconnected to any distribution feeder line, circuit, or network that the commission or governing body determines are necessary to protect public safety and system reliability.

(3) An electric utility may not require a customer-generator whose net metering system meets the standards in subsections (1) and (2) of this section to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance. However, an electric utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a net metering system, or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party.

(4) Except when required under the federal public utility regulatory policies act, an electric utility may not establish compensation arrangements or interconnection requirements, other than those permitted in this chapter, for a customer-generator that would have the effect of prohibiting or restricting the ability of a customer-generator to generate or store electricity for consumption on its premises.

Sec. 5. RCW 82.16.090 and 1988 c 228 s 1 are each amended to read as follows:

(1) Any customer billing issued by a light or power business or gas distribution business that serves a total of more than twenty thousand customers and operates within the state shall include the following information:

~~((+))~~ (a) The rates and amounts of taxes paid directly by the customer upon products or services rendered by the light and power business or gas distribution business; ~~((and~~

~~(2)))~~ (b) The rate, origin and approximate amount of each tax levied upon the revenue of the light and power business or gas distribution business and added as a component of the amount charged to the customer. Taxes based upon revenue of the light and power business or gas distribution business to be listed on the customer billing need not include taxes levied by the federal government or taxes levied under chapters 54.28, 80.24, or 82.04 RCW; and

(c) The total amount of kilowatt-hours of electricity consumed for the most recent twelve-month period or other information that provides the customer with information regarding their energy usage over a twelve-month period.

(2) A light or power business or gas distribution business that serves a total of more than twenty thousand customers and operates within the state may include information regarding rates over the most recent twelve-month period on any customer billing.

NEW SECTION. **Sec. 6.** A new section is added to chapter 19.27 RCW to read as follows:

The state building code council, in consultation with the department of commerce and local governments, shall conduct a study of the state building code and adopt changes necessary to encourage greater use of renewable energy systems as defined in RCW 82.16.110.

Passed by the Senate April 22, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 236

[Senate Bill 5233]

CONSTRUCTION WORKERS--SICK LEAVE COLLECTIVE BARGAINING

AN ACT Relating to creating an alternative process for sick leave benefits for workers represented by collective bargaining agreements; amending RCW 49.46.020 and 49.46.210; adding a new section to chapter 49.46 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 Initiative 1433 is a good law approved by the voters to establish sick leave benefits for workers. The law creates necessary worker protections while simultaneously reducing the spread of communicable sickness and disease and addressing other public health and safety concerns.

However, the legislature finds that this new law does not provide for flexibility and portability of benefits for construction workers who may work for multiple employers and who already negotiate wages and benefits with their

employers. Workers covered under a collective bargaining agreement for the construction industry should be allowed the ability to negotiate comparable benefits that ensures that eligibility can be achieved and that the benefits are portable from employer to employer.

Sec. 2. RCW 49.46.020 and 2017 c 2 s 3 are each amended to read as follows:

(1)(a) Beginning January 1, 2017, and until January 1, 2018, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than eleven dollars per hour.

(b) Beginning January 1, 2018, and until January 1, 2019, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than eleven dollars and fifty cents per hour.

(c) Beginning January 1, 2019, and until January 1, 2020, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than twelve dollars per hour.

(d) Beginning January 1, 2020, and until January 1, 2021, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than thirteen dollars and fifty cents per hour.

(2)(a) Beginning on January 1, 2021, and each following January 1st as set forth under (b) of this subsection, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than the amount established under (b) of this subsection.

(b) On September 30, 2020, and on each following September 30th, the department of labor and industries shall calculate an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. The adjusted minimum wage rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the twelve months prior to each September 1st as calculated by the United States department of labor. Each adjusted minimum wage rate calculated under this subsection (2)(b) takes effect on the following January 1st.

(3) An employer must pay to its employees: (a) All tips and gratuities; and (b) all service charges as defined under RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized as not being payable to the employee or employees servicing the customer. Tips and service charges paid to an employee are in addition to, and may not count towards, the employee's hourly minimum wage.

(4) Beginning January 1, 2018, except as provided in section 4 of this act, every employer must provide to each of its employees paid sick leave as provided in RCW 49.46.200 and 49.46.210.

(5) The director shall by regulation establish the minimum wage for employees under the age of eighteen years.

Sec. 3. RCW 49.46.210 and 2017 c 2 s 5 are each amended to read as follows:

(1) Beginning January 1, 2018, except as provided in section 4 of this act, 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 paid sick leave carries over to the following year, except that an employer is not required to allow an employee to carry over paid sick leave in excess of forty hours.

(k) This section does not require an employer 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 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.

(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.

NEW SECTION. Sec. 4. A new section is added to chapter 49.46 RCW 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.

Passed by the Senate April 19, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 237

[Senate Bill 5300]

CORONERS--SUBPOENA DUCES TECUM AUTHORITY

AN ACT Relating to providing coroners with additional subpoena duces tecum authority; and adding a new section to chapter 36.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 36.24 RCW to read as follows:

In addition to any of its existing authorities, the coroner may, in the course of an active or ongoing death investigation, request that the superior court issue subpoenas for production of documents or other records and command each person to whom the subpoena is directed to produce and permit inspection and copying of documentary evidence or tangible things in the possession, custody, or control of that person at a specified time and place. A subpoena for production must substantively comply with the requirements of CR 45. A subpoena for production may be joined with a subpoena for testimony, or it may be issued separately.

Passed by the Senate April 19, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 238

[Engrossed Senate Bill 5334]

UNIFORM COMMON INTEREST OWNERSHIP ACT--VARIOUS PROVISIONS

AN ACT Relating to the Washington uniform common interest ownership act; and amending RCW 64.90.410, 64.90.670, 64.90.010, 64.90.025, 64.90.075, 64.90.080, 64.90.090, 64.90.225, 64.90.245, 64.90.285, 64.90.405, 64.90.445, 64.90.485, 64.90.610, 64.90.650, 64.06.005, 6.13.080, 64.55.005, 64.32.260, 64.34.076, 64.34.308, 64.34.380, 64.34.392, 64.38.025, 64.38.065, 64.38.090, and 64.38.095.

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

PART I — CONDOMINIUM LIABILITY

Sec. 101. RCW 64.90.410 and 2018 c 277 s 303 are each amended to read as follows:

(1)(a) Except as provided otherwise in the governing documents, subsection (4) of this section, or other provisions of this chapter, the board may act on behalf of the association.

(b) In the performance of their duties, officers and board members must exercise the degree of care and loyalty to the association required of an officer or director of a corporation organized, ~~(and)~~ are subject to the conflict of interest rules governing directors and officers, and are entitled to the immunities from liability available to officers and directors under chapter 24.06 RCW. The standards of care and loyalty, and conflict of interest rules and immunities described in this section apply regardless of the form in which the association is organized.

(2)(a) Except as provided otherwise in RCW 64.90.300(5), effective as of the transition meeting held in accordance with RCW 64.90.415(4), the board

must be comprised of at least three members, at least a majority of whom must be unit owners. However, the number of board members need not exceed the number of units then in the common interest community.

(b) Unless the declaration or organizational documents provide for the election of officers by the unit owners, the board must elect the officers.

(c) Unless provided otherwise in the declaration or organizational documents, board members and officers must take office upon adjournment of the meeting at which they were elected or appointed or, if not elected or appointed at a meeting, at the time of such election or appointment, and must serve until their successor takes office.

(d) In determining the qualifications of any officer or board member of the association, "unit owner" includes, unless the declaration or organizational documents provide otherwise, any board member, officer, member, partner, or trustee of any person, who is, either alone or in conjunction with another person or persons, a unit owner.

(e) Any officer or board member of the association who would not be eligible to serve as such if he or she were not a board member, officer, partner in, or trustee of such a person is disqualified from continuing in office if he or she ceases to have any such affiliation with that person or that person would have been disqualified from continuing in such office as a natural person.

(3) Except when voting as a unit owner, the declarant may not appoint or elect any person or to serve itself as a voting, ex officio or nonvoting board member following the transition meeting.

(4) The board may not, without vote or agreement of the unit owners:

(a) Amend the declaration, except as provided in RCW 64.90.285;

(b) Amend the organizational documents of the association;

(c) Terminate the common interest community;

(d) Elect members of the board, but may fill vacancies in its membership not resulting from removal for the unexpired portion of any term or, if earlier, until the next regularly scheduled election of board members; or

(e) Determine the qualifications, powers, duties, or terms of office of board members.

(5) The board must adopt budgets as provided in RCW 64.90.525.

(6) Except for committees appointed by the declarant pursuant to special declarant rights, all committees of the association must be appointed by the board. Committees authorized to exercise any power reserved to the board must include at least two board members who have exclusive voting power for that committee. Committees that are not so composed may not exercise the authority of the board and are advisory only.

Sec. 102. RCW 64.90.670 and 2018 c 277 s 415 are each amended to read as follows:

(1) A declarant and any dealer warrants to a purchaser of a condominium unit that the unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, except for reasonable wear and tear and damage by casualty or condemnation.

(2) A declarant and any dealer impliedly warrants to a purchaser of a condominium unit that the unit and the common elements in the condominium are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by such declarant or dealer will be:

(a) Free from defective materials;

(b) Constructed in accordance with ~~((sound))~~ engineering and construction standards, including applicable building codes, generally accepted in the state of Washington at the time of construction; and

(c) Constructed in a workmanlike manner(~~(; and~~

~~(d) Constructed in compliance with all laws then applicable to such improvements)).~~

(3) A declarant and any dealer warrants to a purchaser of a condominium unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

(4) Warranties imposed under this section may be excluded or modified as specified in RCW 64.90.675.

(5) For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

(6) Any conveyance of a condominium unit transfers to the purchaser all of a declarant's or dealer's implied warranties of quality.

(7)(a) In a proceeding for breach of any of the obligations arising under this section, the ~~((plaintiff))~~ purchaser must show that the alleged breach has adversely affected or will adversely affect the performance of that portion of the unit or common elements alleged to be in breach. Nothing in this section limits the ability of a board to bring claims on behalf of two or more unit owners pursuant to RCW 64.90.405(2)(d).

(b) ~~((As used in this subsection, an adverse effect must be more than technical and must be significant to a reasonable person.))~~ To establish an adverse effect on performance, the ~~((person alleging the breach))~~ purchaser is ~~((not))~~ required to prove that the alleged breach ~~((renders the unit or common element uninhabitable or unfit for its intended purpose))~~;

(i) Is more than technical;

(ii) Is significant to a reasonable person; and

(iii) Has caused or will cause physical damage to the unit or common elements; has materially impaired the performance of mechanical, electrical, plumbing, elevator, or similar building equipment; or presents an actual, unreasonable safety risk to the occupants of the condominium.

(8) Proof of breach of any obligation arising under this section is not proof of damages. Damages awarded for a breach of ~~((an obligation))~~ a warranty arising under subsection (2) of this section are the reasonable cost of repairs. However, if it is established that the cost of such repairs is clearly disproportionate to the loss in market value caused by the breach, damages are limited to the loss in market value.

PART II — TECHNICAL CORRECTIONS

Sec. 201. RCW 64.90.010 and 2018 c 277 s 102 are each amended to read as follows:

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

(1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. For purposes of this subsection:

(a) A person controls a declarant if the person:

(i) Is a general partner, managing member, officer, director, or employer of the declarant;

(ii) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interest in the declarant;

(iii) Controls in any manner the election or appointment of a majority of the directors, managing members, or general partners of the declarant; or

(iv) Has contributed more than twenty percent of the capital of the declarant.

(b) A person is controlled by a declarant if the declarant:

(i) Is a general partner, managing member, officer, director, or employer of the person;

(ii) Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interest in the person;

(iii) Controls in any manner the election or appointment of a majority of the directors, managing members, or general partners of the person; or

(iv) Has contributed more than twenty percent of the capital of the person.

(c) Control does not exist if the powers described in this subsection (1) are held solely as security for an obligation and are not exercised.

(2) "Allocated interests" means the following interests allocated to each unit:

(a) In a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association;

(b) In a cooperative, the common expense liability, the ownership interest, and votes in the association; and

(c) In a plat community and miscellaneous community, the common expense liability and the votes in the association, and also the undivided interest in the common elements if owned in common by the unit owners rather than an association.

(3) "Assessment" means all sums chargeable by the association against a unit, including any assessments levied pursuant to RCW 64.90.480, fines or fees levied or imposed by the association pursuant to this chapter or the governing documents, interest and late charges on any delinquent account, and all costs of collection incurred by the association in connection with the collection of a delinquent owner's account, including reasonable attorneys' fees.

(4) "Association" or "unit owners association" means the unit owners association organized under RCW 64.90.400 and, to the extent necessary to construe sections of this chapter made applicable to common interest communities pursuant to RCW 64.90.080, 64.90.090, or 64.90.095, the association organized or created to administer such common interest communities.

(5) "Ballot" means a record designed to cast or register a vote or consent in a form provided or accepted by the association.

(6) "Board" means the body, regardless of name, designated in the declaration, map, or organizational documents, with primary authority to manage the affairs of the association.

(7) "Common elements" means:

(a) In a condominium or cooperative, all portions of the common interest community other than the units;

(b) In a plat community or miscellaneous community, any real estate other than a unit within a plat community or miscellaneous community that is owned or leased either by the association or in common by the unit owners rather than an association; and

(c) In all common interest communities, any other interests in real estate for the benefit of any unit owners that are subject to the declaration.

(8) "Common expense" means any expense of the association, including allocations to reserves, allocated to all of the unit owners in accordance with common expense liability.

(9) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to RCW 64.90.235.

(10) "Common interest community" means real estate described in a declaration with respect to which a person, by virtue of the person's ownership of a unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements, other units, or other real estate described in the declaration. "Common interest community" does not include an arrangement described in RCW 64.90.110 or 64.90.115. A common interest community may be a part of another common interest community.

(11) "Condominium" means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(12) "Condominium notice" means the notice given to tenants pursuant to subsection (13)(c) of this section.

(13)(a) "Conversion building" means a building:

(i) That at any time before creation of the common interest community was lawfully occupied wholly or partially by a tenant or subtenant for residential purposes pursuant to a rental agreement, oral or written, express or implied, who did not receive a condominium notice prior to entering into the rental agreement or lawfully taking occupancy, whichever event occurred first; or

(ii) That at any time within the twelve months preceding the first acceptance of an agreement with the declarant to convey, or the first conveyance of, any unit in the building, whichever event occurred first, to any person who was not a declarant or dealer, or affiliate of a declarant or dealer, was lawfully occupied wholly or partially by a tenant or subtenant for residential purposes pursuant to a rental agreement, oral or written, express or implied, who did not receive a condominium notice prior to entering into the rental agreement or lawfully taking occupancy, whichever event occurred first.

(b) A building in a common interest community is a conversion building only if:

(i) The building contains more than two attached dwelling units as defined in RCW 64.55.010(1); and

(ii) Acceptance of an agreement to convey, or conveyance of, any unit in the building to any person who was not a declarant or dealer, or affiliate of a declarant or dealer, did not occur prior to July 1, 2018.

(c) The notice referred to in (a)(i) and (ii) of this subsection must be in writing and must state: "The unit you will be occupying is, or may become, part of a common interest community and subject to sale."

(14) "Convey" or "conveyance" means, with respect to a unit, any transfer of ownership of the unit, including a transfer by deed or by real estate contract and, with respect to a unit in a leasehold common interest community or a proprietary lease in a cooperative, a transfer by lease or assignment of the unit, but does not include the creation, transfer, or release of a security interest.

(15) "Cooperative" means a common interest community in which the real estate is owned by an association, each member of which is entitled by virtue of the member's ownership interest in the association and by a proprietary lease to exclusive possession of a unit.

(16) "Dealer" means a person who, together with such person's affiliates, owns or has a right to acquire either six or more units in a common interest community or fifty percent or more of the units in a common interest community containing more than two units.

(17) "Declarant" means:

(a) Any person who executes as declarant a declaration;

(b) Any person who reserves any special declarant right in a declaration;

(c) Any person who exercises special declarant rights or to whom special declarant rights are transferred of record. The holding or exercise of rights to maintain sales offices, signs advertising the common interest community, and models, and related right of access, does not confer the status of being a declarant; or

(d) Any person who is the owner of a fee interest in the real estate that is subjected to the declaration at the time of the recording of an instrument pursuant to RCW 64.90.425 and who directly or through one or more affiliates is materially involved in the construction, marketing, or sale of units in the common interest community created by the recording of the instrument.

(18) "Declarant control" means the right of the declarant or persons designated by the declarant to appoint or remove any officer or board member of the association or to veto or approve a proposed action of any board or association, pursuant to RCW 64.90.415(1)(a).

(19) "Declaration" means the instrument, however denominated, that creates a common interest community, including any amendments to the instrument.

(20) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to:

(a) Add real estate or improvements to a common interest community;

(b) Create units, common elements, or limited common elements within a common interest community;

(c) Subdivide or combine units or convert units into common elements;

(d) Withdraw real estate from a common interest community; or

(e) Reallocate limited common elements with respect to units that have not been conveyed by the declarant.

(21) "Effective age" means the difference between the useful life and remaining useful life.

(22) "Electronic transmission" or "electronically transmitted" means any electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) 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.

(23) "Eligible mortgagee" means the holder of a security interest on a unit that has filed with the secretary of the association a written request that it be given copies of notices of any action by the association that requires the consent of mortgagees.

(24) "Foreclosure" means a statutory forfeiture or a judicial or nonjudicial foreclosure of a security interest or a deed or other conveyance in lieu of a security interest.

(25) "Full funding plan" means a reserve funding goal of achieving one hundred percent fully funded reserves by the end of the thirty-year study period described under RCW 64.90.550, in which the reserve account balance equals the sum of the estimated costs required to maintain, repair, or replace the deteriorated portions of all reserve components.

(26) "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 that reserve component by its effective age, then dividing the result by that reserve component's useful life. The sum total of all reserve components' fully funded balances is the association's fully funded balance.

(27) "Governing documents" means the organizational documents, map, declaration, rules, 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.

(28) "Identifying number" means a symbol or address that identifies only one unit or limited common element in a common interest community.

(29) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(30) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of RCW 64.90.210 (1)(b) or ~~((2))~~ (3) for the exclusive use of one or more, but fewer than all, of the unit owners.

(31) "Map" means: (a) With respect to a plat community, the plat as defined in RCW 58.17.020 and complying with the requirements of Title 58 RCW, and (b) with respect to a condominium, cooperative, or miscellaneous community, a map prepared in accordance with the requirements of RCW 64.90.245.

(32) "Master association" means an organization described in RCW 64.90.300, whether or not it is also an association described in RCW 64.90.400.

(33) "Miscellaneous community" means a common interest community in which units are lawfully created in a manner not inconsistent with chapter 58.17 RCW and that is not a condominium, cooperative, or plat community.

(34) "Nominal reserve costs" means that the current estimated total replacement costs of the reserve components are less than fifty percent of the annual budgeted expenses of the association, excluding contributions to the

reserve fund, for a condominium or cooperative containing horizontal unit boundaries, and less than seventy-five percent of the annual budgeted expenses of the association, excluding contributions to the reserve fund, for all other common interest communities.

(35) "Organizational documents" means the instruments filed with the secretary of state to create an entity and the instruments governing the internal affairs of the entity including, but not limited to, any articles of incorporation, certificate of formation, bylaws, and limited liability company or partnership agreement.

(36) "Person" means an individual, corporation, business trust, estate, the trustee or beneficiary of a trust that is not a business trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal entity.

(37) "Plat community" means a common interest community in which units have been created by subdivision or short subdivision as both are defined in RCW 58.17.020 and in which the boundaries of units are established pursuant to chapter 58.17 RCW.

(38) "Proprietary lease" means a written and recordable lease that is executed and acknowledged by the association as lessor and that otherwise complies with requirements applicable to a residential lease of more than one year and pursuant to which a member is entitled to exclusive possession of a unit in a cooperative. A proprietary lease governed under this chapter is not subject to chapter 59.18 RCW except as provided in the declaration.

(39) "Purchaser" means a person, other than a declarant or a dealer, which by means of a voluntary transfer acquires a legal or equitable interest in a unit other than as security for an obligation.

(40) "Qualified financial institution" means a bank, savings association, or credit union whose deposits are insured by the federal government.

(41) "Real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

(42) "Real estate contract" has the same meaning as defined in RCW 61.30.010.

(43) "Record," when used as a noun, means information inscribed on a tangible medium or contained in an electronic transmission.

(44) "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.

(45) "Replacement cost" means the estimated total cost to maintain, repair, or replace a reserve component to its original functional condition.

(46) "Reserve component" means a physical component of the common interest community which the association is obligated to maintain, repair, or replace, which has an estimated useful life of less than thirty years, and for which the cost of such maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.

(47) "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 64.90.545 and 64.90.550. For the purposes of this subsection, "independent" means a person who is not an employee, officer, or director, and has no pecuniary interest in the declarant, association, or any other party for whom the reserve study is prepared.

(48) "Residential purposes" means use for dwelling or recreational purposes, or both.

(49) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association, however denominated, that is not set forth in the declaration or organizational documents and governs the conduct of persons or the use or appearance of property.

(50) "Security interest" means an interest in real estate or personal property, created by contract or conveyance that secures payment or performance of an obligation. "Security interest" includes a lien created by a mortgage, deed of trust, real estate contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

(51) "Special declarant rights" means rights reserved for the benefit of a declarant to:

(a) Complete any improvements indicated on the map or described in the declaration or the public offering statement pursuant to RCW 64.90.610(1)(h);

(b) Exercise any development right;

(c) Maintain sales offices, management offices, signs advertising the common interest community, and models;

(d) Use easements through the common elements for the purpose of making improvements within the common interest community or within real estate that may be added to the common interest community;

(e) Make the common interest community subject to a master association;

(f) Merge or consolidate a common interest community with another common interest community of the same form of ownership;

(g) Appoint or remove any officer or board member of the association or any master association or to veto or approve a proposed action of any board or association, pursuant to RCW 64.90.415(1);

(h) Control any construction, design review, or aesthetic standards committee or process;

(i) Attend meetings of the unit owners and, except during an executive session, the board;

(j) Have access to the records of the association to the same extent as a unit owner.

(52) "Specially allocated expense" means any expense of the association, including allocations to reserves, allocated to some or all of the unit owners pursuant to RCW 64.90.480 (4) through (8).

(53) "Survey" has the same meaning as defined in RCW 58.09.020.

(54) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(55) "Timeshare" has the same meaning as defined in RCW 64.36.010.

(56) "Transition meeting" means the meeting held pursuant to RCW 64.90.415(4).

(57)(a) "Unit" means a physical portion of the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to RCW 64.90.225(1)(d).

(b) If a unit in a cooperative is owned by a unit owner or is sold, conveyed, voluntarily or involuntarily encumbered, or otherwise transferred by a unit owner, the interest in that unit that is owned, sold, conveyed, encumbered, or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association's interest in that unit is not affected.

(c) Except as provided in the declaration, a mobile home or manufactured home for which title has been eliminated pursuant to chapter 65.20 RCW is part of the unit described in the title elimination documents.

(58)(a) "Unit owner" means (i) a declarant or other person that owns a unit or (ii) a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a person having an interest in a unit solely as security for an obligation.

(b) "Unit owner" also means the vendee, not the vendor, of a unit under a recorded real estate contract.

(c) In a condominium, plat community, or miscellaneous community, the declarant is the unit owner of any unit created by the declaration. In a cooperative, the declarant is treated as the unit owner of any unit to which allocated interests have been allocated until that unit has been conveyed to another person.

(59) "Useful life" means the estimated time during which a reserve component is expected to perform its intended function without major maintenance, repair, or replacement.

(60) "Writing" does not include an electronic transmission.

(61) "Written" means embodied in a tangible medium.

Sec. 202. RCW 64.90.025 and 2018 c 277 s 105 are each amended to read as follows:

(1) A building, fire, health, or safety statute, ordinance, or regulation may not impose any requirement upon any structure in a common interest community that it would not impose upon a physically identical development under a different form of ownership.

(2) A zoning, subdivision, or other land use statute, ordinance, or regulation may not prohibit the condominium or cooperative form of ownership or impose any requirement upon a condominium or cooperative or miscellaneous community that it would not impose upon a physically identical development under a different form of ownership.

(3) Chapter 58.17 RCW does not apply to the creation of a condominium or a cooperative. This chapter must not be construed to permit the creation of a condominium or cooperative or miscellaneous community on a lot, tract, or parcel of land that could not be sold or transferred without violating chapter 58.17 RCW.

(4) Except as provided in subsections (1), (2), and (3) of this section, this chapter does not invalidate or modify any provision of any building, zoning,

subdivision, or other statute, ordinance, rule, or regulation governing the use of real estate.

(5) This section does not prohibit a county legislative authority from requiring the review and approval of declarations and amendments to declarations and of termination agreements executed pursuant to RCW 64.90.290(2) by the county assessor solely for the purpose of allocating the assessed value and property taxes. The review by the assessor must be done in a reasonable and timely manner.

Sec. 203. RCW 64.90.075 and 2018 c 277 s 116 are each amended to read as follows:

(1) Except as provided otherwise in this section, this chapter applies to all common interest communities created within this state on or after July 1, 2018. Chapters (~~(59-18)~~) 58.19, 64.32, 64.34, and 64.38 RCW do not apply to common interest communities created on or after July 1, 2018.

(2) Unless the declaration provides that this entire chapter is applicable, a plat community or miscellaneous community that is not subject to any development right is subject only to RCW 64.90.020, 64.90.025, and 64.90.030, if the community: (a) Contains no more than twelve units; and (b) provides in its declaration that the annual average assessment of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed three hundred dollars, as adjusted pursuant to RCW 64.90.065.

(3) The exemption provided in subsection (2) of this section applies only if:

(a) The declarant reasonably believes in good faith that the maximum stated assessment will be sufficient to pay the expenses of the association for the community; and

(b) The declaration provides that the assessment may not be increased above the limitation in subsection (2) of this section prior to the transition meeting without the consent of unit owners, other than the declarant, holding ninety percent of the votes in the association.

(4) Except as otherwise provided in RCW 64.90.080, this chapter does not apply to any common interest community created within this state on or after July 1, 2018, if:

(a) That common interest community is made part of a common interest community created in this state prior to July 1, 2018, pursuant to a right expressly set forth in the declaration of the preexisting common interest community; and

(b) The declaration creating that common interest community expressly subjects that common interest community to the declaration of the preexisting common interest community pursuant to such right described in (a) of this subsection.

Sec. 204. RCW 64.90.080 and 2018 c 277 s 117 are each amended to read as follows:

(1) Except for a nonresidential common interest community described in RCW 64.90.100, RCW 64.90.095 (~~(and)~~), 64.90.405(1) (b) and (c), 64.90.525 and 64.90.545 apply, and any inconsistent provisions of chapter (~~(59-18)~~) 58.19, 64.32, 64.34, or 64.38 RCW do not apply, to a common interest community created in this state before July 1, 2018.

(2) Except to the extent provided in this subsection, the sections listed in subsection (1) of this section apply only to events and circumstances occurring on or after July 1, 2018, and do not invalidate existing provisions of the governing documents of those common interest communities. To protect the public interest, RCW 64.90.095 and 64.90.525 supersede existing provisions of the governing documents of all plat communities and miscellaneous communities previously subject to chapter 64.38 RCW.

Sec. 205. RCW 64.90.090 and 2018 c 277 s 119 are each amended to read as follows:

(1) Chapter 64.32 RCW does not apply to condominiums created on or after July 1, 1990, and except as otherwise provided in subsection (2) of this section, chapter 64.34 RCW does not apply to condominiums created on or after July 1, 2018.

(2) RCW 64.34.405, 64.34.410, 64.34.415, 64.34.417, 64.34.418, and 64.34.420 continue to apply, and RCW 64.90.605, 64.90.610, 64.90.615, 64.90.620, 64.90.625, 64.90.630, and 64.90.635 do not apply, to any public offering statement first delivered to a prospective purchaser prior to July 1, 2018, for any common interest community created on or after July 1, 2018. A declarant or dealer who first delivered a public offering statement to a prospective purchaser pursuant to chapter 64.34 RCW prior to July 1, 2018, is not required to deliver a new or amended public offering statement to that purchaser pursuant to this act.

Sec. 206. RCW 64.90.225 and 2018 c 277 s 206 are each amended to read as follows:

(1) The declaration must contain:

(a) The names of the common interest community and the association and, immediately following the initial recital of the name of the community, a statement that the common interest community is a condominium, cooperative, plat community, or miscellaneous community;

(b) A legal description of the real estate included in the common interest community;

(c) A statement of the number of units that the declarant has created and, if the declarant has reserved the right to create additional units, the maximum number of such additional units;

(d) In all common interest communities, a reference to the recorded map creating the units and common elements, if any, subject to the declaration, and in a common interest community other than a plat community, the identifying number of each unit created by the declaration, a description of the boundaries of each unit if and to the extent they are different from the boundaries stated in RCW 64.90.210(1)(a), and with respect to each existing unit, and if known at the time the declaration is recorded, the (i) approximate square footage, (ii) number of whole or partial bathrooms, (iii) number of rooms designated primarily as bedrooms, and (iv) level or levels on which each unit is located. The data described in this subsection (1)(d)(ii) and (iii) may be omitted with respect to units restricted to nonresidential use;

(e) A description of any limited common elements, other than those specified in RCW 64.90.210 (1)(b) and ~~((2))~~ (3);

(f) A description of any real estate that may be allocated subsequently by the declarant as limited common elements, other than limited common elements specified in RCW 64.90.210 (1)(b) and ~~((2))~~ (3), together with a statement that they may be so allocated;

(g) A description of any development right and any other special declarant rights reserved by the declarant, and, if the boundaries of the real estate subject to those rights are fixed in the declaration pursuant to (h)(i) of this subsection, a description of the real property affected by those rights, and a time limit within which each of those rights must be exercised;

(h) If any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(i) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right or a statement that no assurances are made in those regards; and

(ii) A statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate;

(i) Any other conditions or limitations under which the rights described in (g) of this subsection may be exercised or will lapse;

(j) An allocation to each unit of the allocated interests in the manner described in RCW 64.90.235;

(k) Any restrictions on alienation of the units, including any restrictions on leasing that exceed the restrictions on leasing units that boards may impose pursuant to RCW 64.90.510(9)(c) and on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, or casualty loss to the unit or to the common interest community, or on termination of the common interest community;

(l) A cross-reference by recording number to the map for the units created by the declaration;

(m) Any authorization pursuant to which the association may establish and enforce construction and design criteria and aesthetic standards as provided in RCW 64.90.505;

(n) All matters required under RCW 64.90.230, 64.90.235, 64.90.240, 64.90.275, 64.90.280, and 64.90.410;

(o) A statement on the first page of the declaration whether the common interest community is subject to this chapter.

(2) All amendments to the declaration must contain a cross-reference by recording number to the declaration and to any prior amendments to the declaration. All amendments to the declaration adding units must contain a cross-reference by recording number to the map relating to the added units and set forth all information required under subsection (1) of this section with respect to the added units.

(3) The declaration may contain any other matters the declarant considers appropriate, including any restrictions on the uses of a unit or the number or other qualifications of persons who may occupy units.

Sec. 207. RCW 64.90.245 and 2018 c 277 s 210 are each amended to read as follows:

(1) A map is required for all common interest communities. For purposes of this chapter, a map must be construed as part of the declaration.

(2) With the exception of subsections (1), (3), (4), and (14) of this section, this section does not apply to a plat as defined in RCW 58.17.020.

(3) The map for a common interest community must be executed by the declarant and recorded concurrently with, and contain cross-references by recording number to, the declaration.

(4) An amendment to a map for a common interest community must be executed by the same party or parties authorized or required to execute an amendment to the declaration, contain cross-references by recording number to the declaration and any amendments to the declaration, and be recorded concurrently with an amendment to the declaration. With respect to a plat community, (a) any amendment to the map must be prepared and recorded in compliance with the requirements, processes, and procedures in chapter 58.17 RCW and of the local subdivision ordinances of the city, town, or county in which the plat community is located, and (b) any amendment to the declaration must conform to the map as so approved and recorded.

(5) A map for a cooperative may be prepared by a licensed land surveyor, and may be incorporated into the declaration to satisfy subsection (3) of this section and RCW 64.90.225(1)(d). If the map for a cooperative is not prepared by a licensed land surveyor, the map need not contain the certification required in subsection (6)(a) of this section.

(6) The map for a common interest community must be clear and legible and must contain:

(a) If the map is a survey, a certification by a licensed land surveyor in substantially the following form:

SURVEYOR CERTIFICATE: This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of (name of party requesting the survey) on (date). I hereby certify that this map for (name of common interest community) is based upon an actual survey of the property herein described; that the bearings and distances are correctly shown; that all information required by the Washington Uniform Common Interest Ownership Act is supplied herein; and that all horizontal and vertical boundaries of the units, (1) to the extent determined by the walls, floors, or ceilings thereof, or other physical monuments, are substantially completed in accordance with said map, or (2) to the extent such boundaries are not defined by physical monuments, such boundaries are shown on the map. (Surveyor's name, signature, license or certificate number, and acknowledgment)

(b) If the map is not a survey, a certification in substantially the following form:

DECLARANT CERTIFICATE: I hereby certify on behalf of (declarant) that this map for (name of common interest community) was made by me or under my direction in conformance with the requirements of RCW 64.90.245; that all information required by the Washington Uniform Common Interest Ownership Act is supplied herein; and that all horizontal and vertical boundaries of the units, (1) to the extent determined by the walls, floors, or ceilings thereof,

or other physical monuments, are substantially completed in accordance with said map, or (2) to the extent such boundaries are not defined by physical monuments, such boundaries are shown on the map. (Declarant's name, signature, and acknowledgment)

(c) A declaration by the declarant in substantially the following form:

DECLARANT DECLARATION: The undersigned owner or owners of the interest in the real estate described herein hereby declare this map and dedicate the same for a common interest community named (name of common interest community), a (type of community), as that term is defined in the Washington Uniform Common Interest Ownership Act, solely to meet the requirements of the Washington Uniform Common Interest Ownership Act and not for any public purpose. This map and any portion thereof is restricted by law and the Declaration for (name of common interest community), recorded under (name of county in which the common interest community is located) County Recording No. (recording number). (Declarant's name, signature, and acknowledgment)

(7) Each map filed for a common interest community, and any amendments to the map, must be in the style, size, form, and quality as prescribed by the recording authority of the county where filed, and a copy must be delivered to the county assessor.

(8) Each map prepared for a common interest community in compliance with this chapter, and any amendments to the map, must show or state:

(a) The name of the common interest community and, immediately following the name of the community, a statement that the common interest community is a condominium, cooperative, or miscellaneous community as defined in this chapter. A local jurisdiction may also require that the name of a plat community on the survey, plat, or map be followed by a statement that the common interest community is a plat community as defined in this chapter;

(b) A legal description of the land in the common interest community;

(c) As to a condominium, a survey of the land in the condominium, and as to a cooperative, a survey or a drawing of the land included in the entire cooperative that complies with the other requirements of this section;

(d) If the boundaries of land subject to the development right to withdraw are fixed in the declaration or an amendment to the declaration pursuant to RCW 64.90.225(1)(h)(i), and subject to the provisions of the declaration, an amendment to the map if not contained in the initial recorded map, the legal description and boundaries of that land, labeled "MAY BE WITHDRAWN FROM THE [COMMON INTEREST COMMUNITY];

(e) If the boundaries of land subject to the development right to add units that will result in the reallocation of allocated interests is fixed in the declaration or an amendment to the declaration pursuant to RCW 64.90.225(1)(h)(i), and subject to the provisions of the declaration, the legal description and boundaries of that land, labeled "SUBJECT TO DEVELOPMENT RIGHTS TO ADD UNITS THAT WILL RESULT IN A REALLOCATION OF ALLOCATED INTERESTS";

(f) The location and dimensions of all existing buildings containing or comprising units;

(g) The extent of any encroachments by or upon any portion of the common interest community;

(h) To the extent feasible, the location and dimensions of all recorded easements serving or burdening any portion of the common interest community and any unrecorded easements of which a surveyor or declarant knows or reasonably should have known;

(i) The location and dimensions of vertical unit boundaries;

(j) The location with reference to an established datum of horizontal unit boundaries, and that unit's identifying number. With respect to a cooperative, miscellaneous community, or condominium for which the horizontal boundaries are not defined by physical monuments, reference to an established datum is not required if the location of the horizontal boundaries of a unit is otherwise reasonably described or depicted;

(k) The legal description and the location and dimensions of any real estate in which the unit owners will own only an estate for years, labeled as "LEASEHOLD REAL ESTATE";

(l) The distance between any noncontiguous parcels of real estate comprising the common interest community;

(m) The general location of any existing principal common amenities listed in a public offering statement under RCW 64.90.610(1)(k);

(n) The general location of porches, decks, balconies, patios, storage facilities, moorage spaces, or parking spaces that are allocated as limited common elements, and any applicable identifying number or designation; and

(o) As to any survey, all other matters customarily shown on land surveys.

(9) The map for a common interest community may also show the anticipated approximate location and dimensions of any contemplated improvement to be constructed anywhere within the common interest community, and any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT."

(10) The map for a common interest community must identify any unit in which the declarant has reserved the right to create additional units or common elements under RCW 64.90.250(3).

(11) Unless the declaration provides otherwise, any horizontal boundary of part of a unit located outside a building has the same elevation as the horizontal boundary of the inside part and need not be depicted on the map.

(12) Upon exercising any development right, the declarant must record either new maps necessary to conform to the requirements of subsections (3), (4), (6), and (8) of this section, or new certifications of any map previously recorded if that map otherwise conforms to the requirements of subsections (3), (4), (6), and (8) of this section.

(13) Any survey and the surveyor certifications required under this section must be made by a licensed surveyor.

(14) As to a plat community, the information required under subsections (6)(a) and (c), (8)(d) through (g), (k), (m), and (n), (9), and (10) of this section is required, but may be shown on a map incorporated in or attached to the declaration, and need not be shown on the plat community map. Any such map is deemed a map for purposes of applying the provisions of this section, and the declarant must provide the certification required under subsection (6)(b) of this section.

(15) In showing or projecting the location and dimensions of the vertical boundaries of a unit located in a building, it is not necessary to show the thickness of the walls constituting the vertical boundaries or otherwise show the distance of those vertical boundaries either from the exterior surface of the building containing that unit or from adjacent vertical boundaries of other units if: (a) The walls are designated to be the vertical boundaries of that unit; (b) the unit is located within a building, the location and dimensions of the building having been shown on the map under subsection (8)(f) of this section; and (c) the graphic general location of the vertical boundaries are shown in relation to the exterior surfaces of that building and to the vertical boundaries of other units within that building.

Sec. 208. RCW 64.90.285 and 2018 c 277 s 218 are each amended to read as follows:

(1)(a) Except in cases of amendments that may be executed by: A declarant under subsection (10) of this section, RCW 64.90.240(2), 64.90.245(12), 64.90.250, or 64.90.415(2)(d); the association under RCW 64.90.030, 64.90.230(5), 64.90.240(3), 64.90.260(1), or 64.90.265 or subsection (11) of this section; or certain unit owners under RCW 64.90.240(2), 64.90.260(1), 64.90.265(2), or 64.90.290(2), and except as limited by subsections (4), (6), (7), (8), and (12) of this section, the declaration may be amended only by vote or agreement of unit owners of units to which at least sixty-seven percent of the votes in the association are allocated, unless the declaration specifies a different percentage not to exceed ninety percent for all amendments or for specific subjects of amendment. For purposes of this section, "amendment" means any change to the declaration, including adding, removing, or modifying restrictions contained in a declaration.

(b) If the declaration requires the approval of another person as a condition of its effectiveness, the amendment is not valid without that approval; however, any right of approval may not result in an expansion of special declarant rights reserved in the declaration or violate any other section of this chapter, including RCW 64.90.015, 64.90.050, 64.90.055, and 64.90.060.

(2) In the absence of fraud, any action to challenge the validity of an amendment adopted by the association may not be brought more than one year after the amendment is recorded.

(3) Every amendment to the declaration must be recorded in every county in which any portion of the common interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to RCW 64.90.260(1), must be indexed in the grantee's index in the name of the common interest community and the association and in the grantor's index in the name of the parties executing the amendment.

(4) Except to the extent expressly permitted or required under this chapter, an amendment may not create or increase special declarant rights, increase the number of units, change the boundaries of any unit, or change the allocated interests of a unit without the consent of unit owners to which at least ninety percent of the votes in the association are allocated, including the consent of any unit owner of a unit, the boundaries of which or allocated interest of which is changed by the amendment.

(5) Amendments to the declaration required to be executed by the association must be executed by any authorized officer of the association who must certify in the amendment that it was properly adopted.

(6) The declaration may require a higher percentage of unit owner approval for an amendment that is intended to prohibit or materially restrict the uses of units permitted under the applicable zoning ordinances, or to protect the interests of members of a defined class of owners, or to protect other legitimate interests of the association or its members. Subject to subsection (13) of this section, a declaration may not require, as a condition for amendment, approval by more than ninety percent of the votes in the association or by all but one unit owner, whichever is less. An amendment approved under this subsection must provide reasonable protection for a use permitted at the time the amendment was adopted.

(7) The time limits specified in the declaration pursuant to RCW 64.90.225(1)(g) within which reserved development rights must be exercised may be extended, and additional development rights may be created, if persons entitled to cast at least eighty percent of the votes in the association, including eighty percent of the votes allocated to units not owned by the declarant, agree to that action. The agreement is effective thirty days after an amendment to the declaration reflecting the terms of the agreement is recorded unless all the persons holding the affected special declarant rights, or security interests in those rights, record a written objection within the thirty-day period, in which case the amendment is void, or consent in writing at the time the amendment is recorded, in which case the amendment is effective when recorded.

(8) A provision in the declaration creating special declarant rights that have not expired may not be amended without the consent of the declarant.

(9) If any provision of this chapter or the declaration requires the consent of a holder of a security interest in a unit as a condition to the effectiveness of an amendment to the declaration, the consent is deemed granted if a refusal to consent in a record is not received by the association within sixty days after the association delivers notice of the proposed amendment to the holder at an address for notice provided by the holder or mails the notice to the holder by certified mail, return receipt requested, at that address. If the holder has not provided an address for notice to the association, the association must provide notice to the address in the security interest of record.

(10) Upon thirty-day advance notice to unit owners, the declarant may, without a vote of the unit owners or approval by the board, unilaterally adopt, execute, and record a corrective amendment or supplement to the governing documents to correct a mathematical mistake, an inconsistency, or a scrivener's error, or clarify an ambiguity in the governing documents with respect to an objectively verifiable fact including, without limitation, recalculating the undivided interest in the common elements, the liability for common expenses, or the number of votes in the unit owners' association appertaining to a unit, within five years after the recordation or adoption of the governing document containing or creating the mistake, inconsistency, error, or ambiguity. Any such amendment or supplement may not materially reduce what the obligations of the declarant would have been if the mistake, inconsistency, error, or ambiguity had not occurred.

(11) Upon thirty-day advance notice to unit owners, the association may, upon a vote of two-thirds of the members of the board, without a vote of the unit owners, adopt, execute, and record an amendment to the declaration for the following purposes:

(a) To correct or supplement the governing documents as provided in subsection (10) of this section;

(b) To remove language and otherwise amend as necessary to effect the removal of language purporting to forbid or restrict the conveyance, encumbrance, occupancy, or lease to: Individuals of a specified race, creed, color, sex, or national origin; individuals with sensory, mental, or physical disabilities; and families with children or any other legally protected classification;

(c) To remove language and otherwise amend as necessary to effect the removal of language that purports to impose limitations on the power of the association beyond the limit authorized in RCW 64.90.405(~~((1)(u))~~) (3)(a) to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons; and

(d) To remove any other language and otherwise amend as necessary to effect the removal of language purporting to limit the rights of the association or its unit owners in direct conflict with this chapter.

(12) If the declaration requires that amendments to the declaration may be adopted only if the amendment is signed by a specified number or percentage of unit owners and if the common interest community contains more than twenty units, such requirement is deemed satisfied if the association obtains such signatures or the vote or agreement of unit owners holding such number or percentage.

(13)(a) If the declaration requires that amendments to the declaration may be adopted only by the vote or agreement of unit owners of units to which more than sixty-seven percent of the votes in the association are allocated, and the percentage required is otherwise consistent with this chapter, the amendment is approved if:

(i) The approval of the percentage specified in the declaration is obtained;

(ii)(A) Unit owners of units to which at least sixty-seven percent of the votes in the association are allocated vote for or agree to the proposed amendment;

(B) A unit owner does not vote against the proposed amendment; and

(C) Notice of the proposed amendment, including notice that the failure of a unit owner to object may result in the adoption of the amendment, is delivered to the unit owners holding the votes in the association that have not voted or agreed to the proposed amendment and no written objection to the proposed amendment is received by the association within sixty days after the association delivers notice; or

(iii)(A) Unit owners of units to which at least sixty-seven percent of the votes in the association are allocated vote for or agree to the proposed amendment;

(B) At least one unit owner objects to the proposed amendment; and

(C) Pursuant to an action brought by the association in the county in which the common interest community is situated against all objecting unit owners, the court finds, under the totality of circumstances including, but not limited to, the

subject matter of the amendment, the purpose of the amendment, the percentage voting to approve the amendment, and the percentage objecting to the amendment, that the amendment is reasonable.

(b) If the declaration requires the affirmative vote or approval of any particular unit owner or class of unit owners as a condition of its effectiveness, the amendment is not valid without that vote or approval.

Sec. 209. RCW 64.90.405 and 2018 c 277 s 302 are each amended to read as follows:

(1) An association must:

(a) Adopt organizational documents;

(b) Adopt budgets as provided in RCW 64.90.525;

(c) Impose assessments for common expenses and specially allocated expenses on the unit owners as provided in RCW 64.90.080(1) and 64.90.525;

(d) Prepare financial statements as provided in RCW 64.90.530; and

(e) Deposit and maintain the funds of the association in accounts as provided in RCW 64.90.530.

(2) Except as provided otherwise in subsection (4) of this section and subject to the provisions of the declaration, the association may:

(a) Amend organizational documents and adopt and amend rules;

(b) Amend budgets under RCW 64.90.525;

(c) Hire and discharge managing agents and other employees, agents, and independent contractors;

(d) Institute, defend, or intervene in litigation or in arbitration, mediation, or administrative proceedings or any other legal proceeding in its own name on behalf of itself or two or more unit owners on matters affecting the common interest community;

(e) Make contracts and incur liabilities subject to subsection (4) of this section;

(f) Regulate the use, maintenance, repair, replacement, and modification of common elements;

(g) Cause additional improvements to be made as a part of the common elements;

(h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but:

(i) Common elements in a condominium, plat community, or miscellaneous community may be conveyed or subjected to a security interest pursuant to RCW 64.90.465 only; and

(ii) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest pursuant to RCW 64.90.465 only;

(i) Grant easements, leases, licenses, and concessions through or over the common elements and petition for or consent to the vacation of streets and alleys;

(j) Impose and collect any reasonable payments, fees, or charges for:

(i) The use, rental, or operation of the common elements, other than limited common elements described in RCW 64.90.210 (1)(b) and (3);

(ii) Services provided to unit owners; and

(iii) Moving in, moving out, or transferring title to units to the extent provided for in the declaration;

(k) Collect assessments and impose and collect reasonable charges for late payment of assessments;

(l) Enforce the governing documents and, after notice and opportunity to be heard, impose and collect reasonable fines for violations of the governing documents in accordance with a previously established schedule of fines adopted by the board of directors and furnished to the owners;

(m) Impose and collect reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required under RCW 64.90.640, lender questionnaires, or statements of unpaid assessments;

(n) Provide for the indemnification of its officers and board members, to the extent provided in RCW 23B.17.030;

(o) Maintain directors' and officers' liability insurance;

(p) Subject to subsection (4) of this section, assign its right to future income, including the right to receive assessments;

(q) Join in a petition for the establishment of a parking and business improvement area, participate in the ratepayers' board or other advisory body set up by the legislative authority for operation of a parking and business improvement area, and pay special assessments levied by the legislative authority on a parking and business improvement area encompassing the condominium property for activities and projects that benefit the condominium directly or indirectly;

(r) Establish and administer a reserve account as described in RCW 64.90.535;

(s) Prepare a reserve study as described in RCW 64.90.545;

(t) Exercise any other powers conferred by the declaration or organizational documents;

(u) Exercise all other powers that may be exercised in this state by the same type of entity as the association;

(v) Exercise any other powers necessary and proper for the governance and operation of the association;

(w) Require that disputes between the association and unit owners or between two or more unit owners regarding the common interest community, other than those governed by chapter 64.50 RCW, be submitted to nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding; and

(x) Suspend any right or privilege of a unit owner who fails to pay an assessment, but may not:

(i) Deny a unit owner or other occupant access to the owner's unit;

(ii) Suspend a unit owner's right to vote; or

(iii) Withhold services provided to a unit or a unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person.

(3) The declaration may not limit the power of the association beyond the limit authorized in subsection (2)(w) of this section to:

(a) Deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons; or

(b) Institute litigation or an arbitration, mediation, or administrative proceeding against any person, subject to the following:

(i) The association must comply with chapter 64.50 RCW, if applicable, before instituting any proceeding described in chapter 64.50 RCW in connection with construction defects; and

(ii) The board must promptly provide notice to the unit owners of any legal proceeding in which the association is a party other than proceedings involving enforcement of rules or to recover unpaid assessments or other sums due the association.

(4) Any borrowing by an association that is to be secured by an assignment of the association's right to receive future income pursuant to subsection (2)(e) and (p) of this section requires ratification by the unit owners as provided in this subsection.

(a) The board must provide notice of the intent to borrow to all unit owners. The notice must include the purpose and maximum amount of the loan, the estimated amount and term of any assessments required to repay the loan, a reasonably detailed projection of how the money will be expended, and the interest rate and term of the loan.

(b) In the notice, the board must set a date for a meeting of the unit owners, which must not be less than fourteen and no more than ~~((sixty))~~ fifty days after mailing of the notice, to consider ratification of the borrowing.

(c) Unless at that meeting, whether or not a quorum is present, unit owners holding a majority of the votes in the association or any larger percentage specified in the declaration reject the proposal to borrow funds, the association may proceed to borrow the funds in substantial accordance with the terms contained in the notice.

(5) If a tenant of a unit owner violates the governing documents, in addition to exercising any of its powers against the unit owner, the association may:

(a) Exercise directly against the tenant the powers described in subsection (2)(l) of this section;

(b) After giving notice to the tenant and the unit owner and an opportunity to be heard, levy reasonable fines against the tenant and unit owner for the violation; and

(c) Enforce any other rights against the tenant for the violation that the unit owner as the landlord could lawfully have exercised under the lease or that the association could lawfully have exercised directly against the unit owner, or both; but the association does not have the right to terminate a lease or evict a tenant unless permitted by the declaration. The rights referred to in this subsection (5)(c) may be exercised only if the tenant or unit owner fails to cure the violation within ten days after the association notifies the tenant and unit owner of that violation.

(6) Unless a lease otherwise provides, this section does not:

(a) Affect rights that the unit owner has to enforce the lease or that the association has under other law; or

(b) Permit the association to enforce a lease to which it is not a party in the absence of a violation of the governing documents.

(7) The board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commencing an action for a violation of the governing documents, including whether to compromise any claim for unpaid assessments or other claim made by or against it.

(8) The board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

(a) The association's legal position does not justify taking any or further enforcement action;

(b) The covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with law;

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(d) It is not in the association's best interests to pursue an enforcement action.

(9) The board's decision under subsections (7) and (8) of this section to not pursue enforcement under one set of circumstances does not prevent the board from taking enforcement action under another set of circumstances, but the board may not be arbitrary or capricious in taking enforcement action.

Sec. 210. RCW 64.90.445 and 2018 c 277 s 310 are each amended to read as follows:

(1) The following requirements apply to unit owner meetings:

(a) A meeting of the association must be held at least once each year. Failure to hold an annual meeting does not cause a forfeiture or give cause for dissolution of the association and does not affect otherwise valid association acts.

(b)(i) An association must hold a special meeting of unit owners to address any matter affecting the common interest community or the association if its president, a majority of the board, or unit owners having at least twenty percent, or any lower percentage specified in the organizational documents, of the votes in the association request that the secretary call the meeting.

(ii) If the association does not provide notice to unit owners of a special meeting within thirty days after the requisite number or percentage of unit owners request the secretary to do so, the requesting members may directly provide notice to all the unit owners of the meeting. Only matters described in the meeting notice required in (c) of this subsection may be considered at a special meeting.

(c) An association must provide notice to unit owners of the time, date, and place of each annual and special unit owners meeting not less than fourteen days and not more than fifty days before the meeting date. Notice may be by any means described in RCW 64.90.515. The notice of any meeting must state the time, date, and place of the meeting and the items on the agenda, including:

(i) The text of any proposed amendment to the declaration or organizational documents;

(ii) Any changes in the previously approved budget that result in a change in the assessment obligations; and

(iii) Any proposal to remove a board member or officer.

(d) The minimum time to provide notice required in (c) of this subsection may be reduced or waived for a meeting called to deal with an emergency.

(e) Unit owners must be given a reasonable opportunity at any meeting to comment regarding any matter affecting the common interest community or the association.

(f) The declaration or organizational documents may allow for meetings of unit owners to be conducted by telephonic, video, or other conferencing process, if the process is consistent with subsection (2)(i) of this section.

(2) The following requirements apply to meetings of the board and committees authorized to act for the board:

(a) Meetings must be open to the unit owners except during executive sessions, but the board may expel or prohibit attendance by any person who, after warning by the chair of the meeting, disrupts the meeting. The board and those committees may hold an executive session only during a regular or special meeting of the board or a committee. A final vote or action may not be taken during an executive session.

(b) An executive session may be held only to:

(i) Consult with the association's attorney concerning legal matters;

(ii) Discuss existing or potential litigation or mediation, arbitration, or administrative proceedings;

(iii) Discuss labor or personnel matters;

(iv) Discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage; or

(v) Prevent public knowledge of the matter to be discussed if the board or committee determines that public knowledge would violate the privacy of any person.

(c) For purposes of this subsection, a gathering of members of the board or committees at which the board or committee members do not conduct association business is not a meeting of the board or committee. Board members and committee members may not use incidental or social gatherings to evade the open meeting requirements of this subsection.

(d) During the period of declarant control, the board must meet at least four times a year. At least one of those meetings must be held at the common interest community or at a place convenient to the community. After the transition meeting, all board meetings must be at the common interest community or at a place convenient to the common interest community unless the unit owners amend the bylaws to vary the location of those meetings.

(e) At each board meeting, the board must provide a reasonable opportunity for unit owners to comment regarding matters affecting the common interest community and the association.

(f) Unless the meeting is included in a schedule given to the unit owners or the meeting is called to deal with an emergency, the secretary or other officer specified in the organizational documents must provide notice of each board meeting to each board member and to the unit owners. The notice must be given at least fourteen days before the meeting and must state the time, date, place, and agenda of the meeting.

(g) If any materials are distributed to the board before the meeting, the board must make copies of those materials reasonably available to ~~((those))~~ the unit owners, except that the board need not make available copies of unapproved minutes or materials that are to be considered in executive session.

(h) Unless the organizational documents provide otherwise, fewer than all board members may participate in a regular or special meeting by or conduct a

meeting through the use of any means of communication by which all board members participating can hear each other during the meeting. A board member participating in a meeting by these means is deemed to be present in person at the meeting.

(i) Unless the organizational documents provide otherwise, the board may meet by participation of all board members by telephonic, video, or other conferencing process if:

(i) The meeting notice states the conferencing process to be used and provides information explaining how unit owners may participate in the conference directly or by meeting at a central location or conference connection; and

(ii) The process provides all unit owners the opportunity to hear or perceive the discussion and to comment as provided in (e) of this subsection.

(j) After the transition meeting, unit owners may amend the organizational documents to vary the procedures for meetings described in (i) of this subsection.

(k) Instead of meeting, the board may act by unanimous consent as documented in a record by all its members. Actions taken by unanimous consent must be kept as a record of the association with the meeting minutes. After the transition meeting, the board may act by unanimous consent only to undertake ministerial actions, actions subject to ratification by the unit owners, or to implement actions previously taken at a meeting of the board.

(l) A board member who is present at a board meeting at which any action is taken is presumed to have assented to the action taken unless the board member's dissent or abstention to such action is lodged with the person acting as the secretary of the meeting before adjournment of the meeting or provided in a record to the secretary of the association immediately after adjournment of the meeting. The right to dissent or abstain does not apply to a board member who voted in favor of such action at the meeting.

(m) A board member may not vote by proxy or absentee ballot.

(n) Even if an action by the board is not in compliance with this section, it is valid unless set aside by a court. A challenge to the validity of an action of the board for failure to comply with this section may not be brought more than ninety days after the minutes of the board of the meeting at which the action was taken are approved or the record of that action is distributed to unit owners, whichever is later.

(3) Minutes of all unit owner meetings and board meetings, excluding executive sessions, must be maintained in a record. The decision on each matter voted upon at a board meeting or unit owner meeting must be recorded in the minutes.

Sec. 211. RCW 64.90.485 and 2018 c 277 s 318 are each amended to read as follows:

(1) The association has a statutory lien on each unit for any unpaid assessment against the unit from the time such assessment is due.

(2) A lien under this section has priority over all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances that the association creates, assumes, or takes subject to;

(b) Except as otherwise provided in subsection (3) of this section, a security interest on the unit recorded before the date on which the unpaid assessment became due or, in a cooperative, a security interest encumbering only the unit owner's interest and perfected before the date on which the unpaid assessment became due; and

(c) Liens for real estate taxes and other state or local governmental assessments or charges against the unit or cooperative.

(3)(a) A lien under this section also has priority over the security interests described in subsection (2)(b) of this section to the extent of an amount equal to the following:

(i) The common expense assessments, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.90.480(1), along with any specially allocated assessments that are properly assessable against the unit under such periodic budget, which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the association's lien or a security interest described in subsection (2)(b) of this section;

(ii) The association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien but incurred after the giving of the notice described in (a)(iii) of this subsection; provided, however, that the costs and reasonable attorneys' fees that will have priority under this subsection (3)(a)(ii) shall not exceed two thousand dollars or an amount equal to the amounts described in (a)(i) of this subsection, whichever is less;

(iii) The amounts described in (a)(ii) of this subsection shall be prior only to the security interest of the holder of a security interest on the unit recorded before the date on which the unpaid assessment became due and only if the association has given that holder not less than sixty days' prior written notice that the owner of the unit is in default in payment of an assessment. The notice shall contain:

(A) Name of the borrower;

(B) Recording date of the trust deed or mortgage;

(C) Recording information;

(D) Name of condominium, unit owner, and unit designation stated in the declaration or applicable supplemental declaration;

(E) Amount of unpaid assessment; and

(F) A statement that failure to, within sixty days of the written notice, submit the association payment of six months of assessments as described in (a)(i) of this subsection will result in the priority of the amounts described in (a)(ii) of this subsection; and

(iv) Upon payment of the amounts described in (a)(i) and (ii) of this subsection by the holder of a security interest, the association's lien described in this subsection (3)(a) shall thereafter be fully subordinated to the lien of such holder's security interest on the unit.

(b) For the purposes of this subsection:

(i) "Institution of proceedings" means either:

(A) The date of recording of a notice of trustee's sale by a deed of trust beneficiary;

(B) The date of commencement, pursuant to applicable court rules, of an action for judicial foreclosure either by the association or by the holder of a recorded security interest; or

(C) The date of recording of a notice of intention to forfeit in a real estate contract forfeiture proceeding by the vendor under a real estate contract.

(ii) "Capital improvements" does not include making, in the ordinary course of management, repairs to common elements or replacements of the common elements with substantially similar items, subject to: (A) Availability of materials and products, (B) prevailing law, or (C) sound engineering and construction standards then prevailing.

(c) The adoption of a periodic budget that purports to allocate to a unit any fines, late charges, interest, attorneys' fees and costs incurred for services unrelated to the foreclosure of the association's lien, other collection charges, or specially allocated assessments assessed under RCW 64.90.480 (6) or (7) does not cause any such items to be included in the priority amount affecting such unit.

(4) Subsections (2) and (3) of this section do not affect the priority of mechanics' or material suppliers' liens to the extent that law of this state other than chapter 277, Laws of 2018 gives priority to such liens, or the priority of liens for other assessments made by the association.

(5) A lien under this section is not subject to chapter 6.13 RCW.

(6) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided under subsection (13) of this section, the association is not entitled to the lien priority provided for under subsection (3) of this section, and is subject to the limitations on deficiency judgments as provided in chapter 61.24 RCW.

(7) Unless the declaration provides otherwise, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority as to each other, and any foreclosure of one such lien shall not affect the lien of the other.

(8) Recording of the declaration constitutes record notice and perfection of the statutory lien created under this section. Further notice or recordation of any claim of lien for assessment under this section is not required, but is not prohibited.

(9) A lien for unpaid assessments and the personal liability for payment of those assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the full amount of the assessments sought to be recovered becomes due.

(10) This section does not prohibit actions against unit owners to recover sums for which subsection (1) of this section creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(11) The association upon written request must furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments or the priority amount against that unit, or both. The statement must be furnished within fifteen days after receipt of the request and is binding on the association, the board, and every unit owner unless, and to the extent, known by the recipient to be false. The liability of a recipient who reasonably relies upon the statement must not exceed the

amount set forth in any statement furnished pursuant to this section or RCW 64.90.640(1)(b).

(12) In a cooperative, upon nonpayment of an assessment on a unit, the unit owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided under this section.

(13) The association's lien may be foreclosed in accordance with (a) and (b) of this subsection.

(a) In a common interest community other than a cooperative, the association's lien may be foreclosed judicially in accordance with chapter 61.12 RCW, subject to any rights of redemption under chapter 6.23 RCW.

(b) The lien may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration: Contains a grant of the common interest community in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, contains a power of sale, provides in its terms that the units are not used principally for agricultural purposes, and provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative may purchase the unit at the foreclosure sale and acquire, hold, lease, mortgage, or convey the unit. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption is eight months.

(c) In a cooperative in which the unit owners' interests in the units are real estate, the association's lien must be foreclosed in like manner as a mortgage on real estate or by power of sale under (b) of this subsection.

(d) In a cooperative in which the unit owners' interests in the units are personal property, the association's lien must be foreclosed in like manner as a security interest under chapter 62A.9A RCW.

(14) If the unit owner's interest in a unit in a cooperative is real estate, the following requirements apply:

(a) The association, upon nonpayment of assessments and compliance with this subsection, may sell that unit at a public sale or by private negotiation, and at any time and place. The association must give to the unit owner and any lessee of the unit owner reasonable notice in a record of the time, date, and place of any public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time and date after which a private conveyance may be made. Such notice must also be sent to any other person that has a recorded interest in the unit that would be cut off by the sale, but only if the recorded interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required under this subsection may be sent to any address reasonable in the circumstances. A sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

(b) Unless otherwise agreed to or as stated in this section, the unit owner is liable for any deficiency in a foreclosure sale.

(c) The proceeds of a foreclosure sale must be applied in the following order:

- (i) The reasonable expenses of sale;
- (ii) The reasonable expenses of securing possession before sale; the reasonable expenses of holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges and premiums on insurance; and, to the extent provided for by agreement between the association and the unit owner, reasonable attorneys' fees, costs, and other legal expenses incurred by the association;
- (iii) Satisfaction of the association's lien;
- (iv) Satisfaction in the order of priority of any subordinate claim of record; and
- (v) Remittance of any excess to the unit owner.

(d) A good-faith purchaser for value acquires the unit free of the association's debt that gave rise to the lien under which the foreclosure sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with this section. The person conducting the sale must execute a conveyance to the purchaser sufficient to convey the unit and stating that it is executed by the person after a foreclosure of the association's lien by power of sale and that the person was empowered to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of nonpayment of the assessment and of the giving of the notices required under this subsection are sufficient proof of the facts recited and of the authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.

(e) At any time before the association has conveyed a unit in a cooperative or entered into a contract for its conveyance under the power of sale, the unit owners or the holder of any subordinate security interest may cure the unit owner's default and prevent sale or other conveyance by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorneys' fees and costs of the creditor.

(15) In an action by an association to collect assessments or to foreclose a lien on a unit under this section, the court may appoint a receiver to collect all sums alleged to be due and owing to a unit owner before commencement or during pendency of the action. The receivership is governed under chapter 7.60 RCW. During pendency of the action, the court may order the receiver to pay sums held by the receiver to the association for any assessments against the unit. The exercise of rights under this subsection by the association does not affect the priority of preexisting liens on the unit.

(16) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure is not liable for assessments or installments of assessments that became due prior to such right of possession. Such unpaid assessments are deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior unit owner of personal liability for

assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(17) In addition to constituting a lien on the unit, each assessment is the joint and several obligation of the unit owner of the unit to which the same are assessed as of the time the assessment is due. A unit owner may not exempt himself or herself from liability for assessments. In a voluntary conveyance other than by foreclosure, the grantee of a unit is jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Suit to recover a personal judgment for any delinquent assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(18) The association may from time to time establish reasonable late charges and a rate of interest to be charged, not to exceed the maximum rate calculated under RCW 19.52.020, on all subsequent delinquent assessments or installments of assessments. If the association does not establish such a rate, delinquent assessments bear interest from the date of delinquency at the maximum rate calculated under RCW 19.52.020 on the date on which the assessments became delinquent.

(19) The association is entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in a suit being commenced or prosecuted to judgment. The prevailing party is also entitled to recover costs and reasonable attorneys' fees in such suits, including any appeals, if it prevails on appeal and in the enforcement of a judgment.

(20) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(21) An association may not commence an action to foreclose a lien on a unit under this section unless:

- (a) The unit owner, at the time the action is commenced, owes a sum equal to at least three months of common expense assessments; and
- (b) The board approves commencement of a foreclosure action specifically against that unit.

(22) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 212. RCW 64.90.610 and 2018 c 277 s 403 are each amended to read as follows:

- (1) A public offering statement must contain the following information:
 - (a) The name and address of the declarant;
 - (b) The name and address or location of the management company, if any;
 - (c) The relationship of the management company to the declarant, if any;
 - (d) The name and address of the common interest community;
 - (e) A statement whether the common interest community is a condominium, cooperative, plat community, or miscellaneous community;
 - (f) A list, current as of the date the public offering statement is prepared, of up to the five most recent common interest communities in which at least one unit was sold by the declarant or an affiliate of the declarant within the past five

years, including the names of the common interest communities and their addresses;

(g) The nature of the interest being offered for sale;

(h) A general description of the common interest community, including to the extent known to the declarant, the types and number of buildings that the declarant anticipates including in the common interest community and the declarant's schedule of commencement and completion of such buildings and principal common amenities;

(i) The status of construction of the units and common elements, including estimated dates of completion if not completed;

(j) The number of existing units in the common interest community;

(k) Brief descriptions of (i) the existing principal common amenities, (ii) those amenities that will be added to the common interest community, and (iii) those amenities that may be added to the common interest community;

(l) A brief description of the limited common elements, other than those described in RCW 64.90.210 (1)(b) and (3), that may be allocated to the units being offered for sale;

(m) The identification of any rights of persons other than unit owners to use any of the common elements, and a description of the terms of such use;

(n) 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;

(o) Any services the declarant provides or expenses that the declarant pays that are not reflected in the budget, but that the declarant expects may become at any subsequent time a common expense of the association, and the projected common expense attributable to each of those services or expenses;

(p) An estimate of any assessment or payment required by the declaration to be paid by the purchaser of a unit at closing;

(q) A brief description of any liens or monetary encumbrances on the title to the common elements that will not be discharged at closing;

(r) A brief description or a copy of any express construction warranties to be provided to the purchaser;

(s) A statement, as required under RCW 64.35.210, as to whether the units or common elements of the common interest community are covered by a qualified warranty;

(t) If applicable to the common interest community, a statement whether the common interest community contains any multiunit residential building subject to chapter 64.55 RCW and, if so, whether:

(i) The building enclosure has been designed and inspected to the extent required under RCW 64.55.010 through 64.55.090; and

(ii) Any repairs required under RCW 64.55.090 have been made;

(u) A statement of any unsatisfied judgments or pending suits against the association and the status of any pending suits material to the common interest community of which the declarant has actual knowledge;

(v) 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 previous five years, together with the results of the litigation, if known;

- (w) A brief description of:
 - (i) Any restrictions on use or occupancy of the units contained in the governing documents;
 - (ii) Any restrictions on the renting or leasing of units by the declarant or other unit owners contained in the governing documents;
 - (iii) Any rights of first refusal to lease or purchase any unit or any of the common elements contained in the governing documents; and
 - (iv) Any restriction on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale;
- (x) A description of the insurance coverage provided for the benefit of unit owners;
- (y) Any current or expected fees or charges not included in the common expenses to be paid by unit owners for the use of the common elements and other facilities related to the common interest community, together with any fees or charges not included in the common expenses to be paid by unit owners to any master or other association;
- (z) The extent, if any, to which bonds or other assurances from third parties have been provided for completion of all improvements that the declarant is obligated to build pursuant to RCW 64.90.695;
 - (aa) In a cooperative, a statement whether the unit owners are entitled, for federal, state, and local income tax purposes, to a pass-through of any deductions for payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative;
 - (bb) In a cooperative, a statement as to the effect on every unit owner's interest in the cooperative if the association fails to pay real estate taxes or payments due to the holder of a security interest encumbering the cooperative;
 - (cc) In a leasehold common interest community, a statement whether the expiration or termination of any lease may terminate the common interest community or reduce its size, the recording number of any such lease or a statement of where the complete lease may be inspected, the date on which such lease is scheduled to expire, a description of the real estate subject to such lease, a statement whether the unit owners have a right to redeem the reversion, a statement whether the unit owners have a right to remove any improvements at the expiration or termination of such lease, a statement of any rights of the unit owners to renew such lease, and a reference to the sections of the declaration where such information may be found;
 - (dd) A summary of, and information on how to obtain a full copy of, any reserve study and a statement as to whether or not it was prepared in accordance with RCW 64.90.545 and 64.90.550 or the governing documents;
 - (ee) A brief description of any arrangement described in RCW 64.90.110 binding the association;
 - (ff) The estimated current common expense liability for the units being offered;
 - (gg) Except for real property taxes, real property assessments and utility liens, any assessments, fees, or other charges known to the declarant and which, if not paid, may constitute a lien against any unit or common elements in favor of any governmental agency;
 - (hh) A brief description of any parts of the common interest community, other than the owner's unit, which any owner must maintain;

(ii) Whether timesharing is permitted or prohibited, and, if permitted, a statement that the purchaser of a timeshare unit is entitled to receive the disclosure document required under chapter 64.36 RCW;

(jj) If the common interest community is subject to any special declarant rights, the information required under RCW 64.90.615;

(kk) Any liens on real estate to be conveyed to the association required to be disclosed pursuant to RCW 64.90.650(3)(b);

(ll) A list of any physical hazards known to the declarant that particularly affect the common interest community or the immediate vicinity in which the common interest community is located and which are not readily ascertainable by the purchaser;

(mm) Any building code violation of which the declarant has actual knowledge and which has not been corrected;

(nn) If the common interest community contains one or more conversion buildings, the information required under RCW 64.90.620 and 64.90.655(6)(a);

(oo) If the public offering statement is related to conveyance of a unit in a multiunit residential building as defined in RCW 64.55.010, for which the final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement either: A copy of a report prepared by an independent, licensed architect or engineer or a statement by the declarant based on such report that describes, to the extent reasonably ascertainable, the present condition of all structural components and mechanical and electrical installations of the conversion buildings material to the use and enjoyment of the conversion buildings;

(pp) Any other information and cross-references that the declarant believes will be helpful in describing the common interest community to the recipients of the public offering statement, all of which may be included or not included at the option of the declarant; and

(qq) A description of any age-related occupancy restrictions affecting the common interest community.

(2) The public offering statement must begin with notices substantially in the following forms and in conspicuous type:

(a) "RIGHT TO CANCEL. (1) You are entitled to receive a copy of this public offering statement and all material amendments to this public offering statement before conveyance of your unit. Under RCW 64.90.635, you have the right to cancel your contract for the purchase of your unit within seven days after first receiving this public offering statement. If this public offering statement is first provided to you more than seven days before you sign your contract for the purchase of your unit, you have no right to cancel your contract. If this public offering statement is first provided to you seven days or less before you sign your contract for the purchase of your unit, you have the right to cancel, before conveyance of the unit, the executed contract by delivering, no later than the seventh day after first receiving this public offering statement, a notice of cancellation pursuant to section (3) of this notice. If this public offering statement is first provided to you less than seven days before the closing date for the conveyance of your unit, you may, before conveyance of your unit to you, extend the closing date to a date not more than seven days after you first received this public offering statement, so that you may have seven days to cancel your contract for the purchase of your unit.

(2) You have no right to cancel your contract upon receipt of an amendment to this public offering statement; however, this does not eliminate any right to rescind your contract, due to the disclosure of the information in the amendment, that is otherwise available to you under generally applicable contract law.

(3) If you elect to cancel your contract pursuant to this notice, you may do so by hand-delivering notice of cancellation, or by mailing notice of cancellation by prepaid United States mail, to the seller at the address set forth in this public offering statement or at the address of the seller's registered agent for service of process. The date of such notice is the date of receipt, if hand-delivered, or the date of deposit in the United States mail, if mailed. Cancellation is without penalty, and all payments made to the seller by you before cancellation must be refunded promptly."

(b) "OTHER DOCUMENTS CREATING BINDING LEGAL OBLIGATIONS. This public offering statement is a summary of some of the significant aspects of purchasing a unit in this common interest community. The governing documents and the purchase agreement are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel."

(c) "OTHER REPRESENTATIONS. You may not rely on any statement, promise, model, depiction, or description unless it is (1) contained in the public offering statement delivered to you or (2) made in writing signed by the declarant or dealer or the declarant's or dealer's agent identified in the public offering statement. A statement of opinion, or a commendation of the real estate, its quality, or its value, does not create a warranty, and a statement, promise, model, depiction, or description does not create a warranty if it discloses that it is only proposed, is not representative, or is subject to change."

(d) "MODEL UNITS. Model units are intended to provide you with a general idea of what a finished unit might look like. Units being offered for sale may vary from the model unit in terms of floor plan, fixtures, finishes, and equipment. You are advised to obtain specific information about the unit you are considering purchasing."

(e) "RESERVE STUDY. The association [does] [does not] have a current reserve study. Any reserve study should be reviewed carefully. It may not include all reserve components that will require major maintenance, repair, or replacement in future years, and may not include regular contributions to a reserve account for the cost of such maintenance, repair, or replacement. You may encounter certain risks, including being required to pay as a special assessment your share of expenses for the cost of major maintenance, repair, or replacement of a reserve component, as a result of the failure to: (1) Have a current reserve study or fully funded reserves, (2) include a component in a reserve study, or (3) provide any or sufficient contributions to a reserve account for a component."

(f) "DEPOSITS AND PAYMENTS. Only earnest money and reservation deposits are required to be placed in an escrow or trust account. Any other payments you make to the seller of a unit are at risk and may be lost if the seller defaults."

(g) "CONSTRUCTION DEFECT CLAIMS. Chapter 64.50 RCW contains important requirements you must follow before you may file a lawsuit for defective construction against the seller or builder of your home. Forty-five days

before you file your lawsuit, you must deliver to the seller or builder a written notice of any construction conditions you allege are defective and provide your seller or builder the opportunity to make an offer to repair or pay for the defects. You are not obligated to accept any offer made by the builder or seller. There are strict deadlines and procedures under state law, and failure to follow them may affect your ability to file a lawsuit."

(h) "ASSOCIATION INSURANCE. The extent to which association insurance provides coverage for the benefit of unit owners (including furnishings, fixtures, and equipment in a unit) is determined by the provisions of the declaration and the association's insurance policy, which may be modified from time to time. You and your personal insurance agent should read the declaration and the association's policy prior to closing to determine what insurance is required of the association and unit owners, unit owners' rights and duties, what is and is not covered by the association's policy, and what additional insurance you should obtain."

(i) "QUALIFIED WARRANTY. Your unit [is] [is not] covered by a qualified warranty under chapter 64.35 RCW. "

(3) The public offering statement must include copies of each of the following documents: The declaration; the ~~((survey))~~ map; the organizational documents; the rules ~~((and regulations))~~, if any; the current or proposed budget for the association; a dated balance sheet of the association; any inspection and repair report or reports prepared in accordance with the requirements of RCW 64.55.090; and any qualified warranty provided to a purchaser by a declarant together with a history of claims under the qualified warranty. If any of these documents are not in final form, the documents must be marked "draft" and, before closing the sale of a unit, the purchaser must be given notice of any material changes to the draft documents.

(4) A declarant must promptly amend the public offering statement to reflect any material change in the information required under this section.

Sec. 213. RCW 64.90.650 and 2018 c 277 s 411 are each amended to read as follows:

(1) In the case of a sale of a unit when delivery of a public offering statement is required pursuant to RCW 64.90.605(3) and subject to subsection (2) of this section, a seller before conveying a unit:

(a) Must record or furnish to the purchaser releases of all liens that encumber:

(i) In a condominium, that unit and its common element interest; and

(ii) In a cooperative, plat community, or miscellaneous community, that unit and any limited common elements assigned to that unit; or

(b) Must provide the purchaser of that unit with title insurance from a licensed title insurance company against any lien not released pursuant to (a) of this subsection.

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

(a) Real estate that a declarant has the right to withdraw from the common interest community;

(b) In a condominium, the unit and its common element interest being purchased, but no other unit, if the purchaser expressly agrees in writing to take subject to or assume such lien;

(c) In a cooperative, plat community, or miscellaneous community, the unit and any limited common element allocated to the unit being purchased, but no other unit, if the purchaser expressly agrees in writing to take subject to or assume such lien.

(3) Before conveying real property to the association, the declarant must have that real property released from:

(a) All liens the foreclosure of which would deprive unit owners of any right of access to or easement of support of their units; and

(b) All other liens on that real property unless the public offering statement describes certain real property that may be conveyed subject to liens in specified amounts.

(4) In the case of a cooperative, the provisions of this section do not apply to liens securing indebtedness that represent a common expense liability for which the purchaser expressly agrees in writing to be responsible.

Sec. 214. RCW 64.06.005 and 2010 c 64 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) "Commercial real estate" has the same meaning as in RCW 60.42.005.

(2) "Improved residential real property" means:

(a) Real property consisting of, or improved by, one to four residential dwelling units;

(b) A residential condominium as defined in RCW 64.34.020(~~((9))~~) (10), unless the sale is subject to the public offering statement requirement in the Washington condominium act, chapter 64.34 RCW;

(c) A residential timeshare, as defined in RCW 64.36.010(11), unless subject to written disclosure under the Washington timeshare act, chapter 64.36 RCW; (~~((8))~~)

(d) A mobile or manufactured home, as defined in RCW 43.22.335 or 46.04.302, that is personal property; or

(e) A residential common interest community as defined in RCW 64.90.010(10) unless the sale is subject to the public offering statement requirement in the Washington uniform common interest ownership act, chapter 64.90 RCW.

(3) "Residential real property" means both improved and unimproved residential real property.

(4) "Seller disclosure statement" means the form to be completed by the seller of residential real property as prescribed by this chapter.

(5) "Unimproved residential real property" means property zoned for residential use that is not improved by one or more residential dwelling units, a residential condominium, a residential timeshare, or a mobile or manufactured home. It does not include commercial real estate or property defined as "timberland" under RCW 84.34.020.

(6) "Improved residential property," "unimproved residential property," and "commercial real estate" do not include a condominium unit created under chapter 64.90 RCW on or after July 1, 2018, if the buyer of the unit entered into a contract to purchase the unit prior to July 1, 2018, and received a public offering statement pursuant to chapter 64.34 RCW prior to July 1, 2018.

Sec. 215. RCW 6.13.080 and 2018 c 277 s 501 are each amended to read as follows:

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, construction, maritime, automobile repair, material supplier's, or vendor's liens arising out of and against the particular property claimed as a homestead;

(2) On debts secured (a) by security agreements describing as collateral the property that is claimed as a homestead or (b) by mortgages or deeds of trust on the premises that have been executed and acknowledged by both spouses or both domestic partners or by any claimant not married or in a state registered domestic partnership;

(3) On one spouse's or one domestic partner's or the community's debts existing at the time of that spouse's or that domestic partner's bankruptcy filing where (a) bankruptcy is filed by both spouses or both domestic partners within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse or other domestic partner exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay maintenance;

(5) On debts owing to the state of Washington for recovery of medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p;

(6) On debts secured by ~~((an))~~ a condominium, homeowners', or common interest community association's lien; or

(7) On debts owed for taxes collected under chapters 82.08, 82.12, and 82.14 RCW but not remitted to the department of revenue.

Sec. 216. RCW 64.55.005 and 2005 c 456 s 1 are each amended to read as follows:

(1)(a) RCW 64.55.010 through 64.55.090 apply to any multiunit residential building for which the permit for construction or rehabilitative construction of such building was issued on or after August 1, 2005.

(b) RCW 64.55.010 and 64.55.090 apply to conversion condominiums as defined in RCW 64.34.020 or conversion buildings as defined in RCW 64.90.010, provided that RCW 64.55.090 shall not apply to a condominium conversion for which a public offering statement had been delivered pursuant to chapter 64.34 RCW prior to August 1, 2005.

(2) RCW 64.55.010 and 64.55.100 through 64.55.160 and 64.34.415 apply to any action that alleges breach of an implied or express warranty under chapter 64.34 RCW or that seeks relief that could be awarded for such breach, regardless of the legal theory ~~((pled))~~ pleaded, except that RCW 64.55.100 through 64.55.160 and 64.34.415 shall not apply to:

(a) Actions filed or served prior to August 1, 2005;

(b) Actions for which a notice of claim was served pursuant to chapter 64.50 RCW prior to August 1, 2005;

(c) Actions asserting any claim regarding a building that is not a multiunit residential building;

(d) Actions asserting any claim regarding a multiunit residential building that was permitted on or after August 1, 2005, unless the letter required by RCW 64.55.060 has been submitted to the appropriate building department or the requirements of RCW 64.55.090 have been satisfied.

(3) Other than the requirements imposed by RCW 64.55.010 through 64.55.090, nothing in this chapter amends or modifies the provisions of RCW 64.34.050.

Sec. 217. RCW 64.32.260 and 2018 c 277 s 503 are each amended to read as follows:

(1) This chapter does not apply to common interest communities as defined in RCW 64.90.010:

~~((+))~~ (a) Created on or after July 1, 2018; or

~~((2))~~ (b) That have amended their governing documents to provide that chapter 64.90 RCW will apply to the common interest community pursuant to RCW 64.90.095.

(2) Pursuant to RCW 64.90.080, the following provisions of chapter 64.90 RCW apply, and any inconsistent provisions of this chapter do not apply, to a common interest community created before July 1, 2018:

(a) RCW 64.90.095;

(b) RCW 64.90.405(1) (b) and (c);

(c) RCW 64.90.525; and

(d) RCW 64.90.545.

Sec. 218. RCW 64.34.076 and 2018 c 277 s 504 are each amended to read as follows:

(1) This chapter does not apply to common interest communities as defined in RCW 64.90.010:

~~((+))~~ (a) Created on or after July 1, 2018; or

~~((2))~~ (b) That have amended their governing documents to provide that chapter 64.90 RCW will apply to the common interest community pursuant to RCW 64.90.095.

(2) Pursuant to RCW 64.90.080, the following provisions of chapter 64.90 RCW apply, and any inconsistent provisions of this chapter do not apply, to a common interest community created before July 1, 2018:

(a) RCW 64.90.095;

(b) RCW 64.90.405(1) (b) and (c);

(c) RCW 64.90.525; and

(d) RCW 64.90.545.

Sec. 219. RCW 64.34.308 and 2011 c 189 s 2 are each amended to read as follows:

(1) Except as provided in the declaration, the bylaws, subsection (2) of this section, or other provisions of this chapter, the board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board of directors are required to exercise: (a) If appointed by the declarant, the care required of fiduciaries of the unit owners; or (b) if elected by the unit owners, ordinary and reasonable care.

(2) The board of directors shall not act on behalf of the association to amend the declaration in any manner that requires the vote or approval of the unit owners pursuant to RCW 64.34.264, to terminate the condominium pursuant to

RCW 64.34.268, or to elect members of the board of directors or determine the qualifications, powers, and duties, or terms of office of members of the board of directors pursuant to subsection (7) of this section; but the board of directors may fill vacancies in its membership for the unexpired portion of any term.

(3) Except as provided in RCW 64.90.080, 64.90.405(1) (b) and (c), and 64.90.525, within thirty days after adoption of any proposed budget for the condominium, the board of directors shall provide a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of units to which a majority of the votes in the association are allocated or any larger percentage specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the board of directors.

(4) As part of the summary of the budget provided to all unit owners, the board of directors shall disclose to the unit owners:

(a) The current amount of regular assessments budgeted for contribution to the reserve account, the recommended contribution rate from the reserve study, and the funding plan upon which the recommended contribution rate is based;

(b) If additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each unit per month or year, and the purpose of the assessments;

(c) Based upon the most recent reserve study and other information, whether currently projected reserve account balances will be sufficient at the end of each year to meet the association's obligation for major maintenance, repair, or replacement of reserve components during the next thirty years;

(d) If reserve account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that sufficient reserve account funds will be available each year during the next thirty years, the approximate dates assessments may be due, and the amount of the assessments per unit per month or year;

(e) The estimated amount recommended in the reserve account at the end of the current fiscal year based on the most recent reserve study, the projected reserve account cash balance at the end of the current fiscal year, and the percent funded at the date of the latest reserve study;

(f) The estimated amount recommended in the reserve account based upon the most recent reserve study at the end of each of the next five budget years, the projected reserve account cash balance in each of those years, and the projected percent funded for each of those years; and

(g) If the funding plan approved by the association is implemented, the projected reserve account cash balance in each of the next five budget years and the percent funded for each of those years.

(5)(a) Subject to subsection (6) of this section, the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may: (i) Appoint and remove the officers and members of the board of directors; or (ii) veto or approve a proposed action of the board or association. A declarant's failure to veto or

approve such proposed action in writing within thirty days after receipt of written notice of the proposed action shall be deemed approval by the declarant.

(b) Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: (i) Sixty days after conveyance of seventy-five percent of the units which may be created to unit owners other than a declarant; (ii) two years after the last conveyance or transfer of record of a unit except as security for a debt; (iii) two years after any development right to add new units was last exercised; or (iv) the date on which the declarant records an amendment to the declaration pursuant to which the declarant voluntarily surrenders the right to further appoint and remove officers and members of the board of directors. A declarant may voluntarily surrender the right to appoint and remove officers and members of the board of directors before termination of that period pursuant to (i), (ii), and (iii) of this subsection (5)(b), but in that event the declarant may require, for the duration of the period of declarant control, that specified actions of the association or board of directors, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(6) Not later than sixty days after conveyance of twenty-five percent of the units which may be created to unit owners other than a declarant, at least one member and not less than twenty-five percent of the members of the board of directors must be elected by unit owners other than the declarant. Not later than sixty days after conveyance of fifty percent of the units which may be created to unit owners other than a declarant, not less than thirty-three and one-third percent of the members of the board of directors must be elected by unit owners other than the declarant.

(7) Within thirty days after the termination of any period of declarant control, the unit owners shall elect a board of directors of at least three members, at least a majority of whom must be unit owners. The number of directors need not exceed the number of units then in the condominium. The board of directors shall elect the officers. Such members of the board of directors and officers shall take office upon election.

(8) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of the voting power in the association present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the board of directors with or without cause, other than a member appointed by the declarant. The declarant may not remove any member of the board of directors elected by the unit owners. Prior to the termination of the period of declarant control, the unit owners, other than the declarant, may remove by a two-thirds vote, any director elected by the unit owners.

Sec. 220. RCW 64.34.380 and 2011 c 189 s 3 are each amended to read as follows:

(1) An association is encouraged to establish a reserve account with a financial institution to fund major maintenance, repair, and replacement of common elements, including limited common elements that will require major maintenance, repair, or replacement within thirty years. If the association establishes a reserve account, the account must be in the name of the association. The board of directors is responsible for administering the reserve account.

(2) Except as provided in RCW 64.90.080 and 64.90.545, unless doing so would impose an unreasonable hardship, an association with significant assets shall prepare and update a reserve study, in accordance with the association's governing documents and RCW 64.34.224(1). The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional.

(3) Except as provided in RCW 64.90.080 and 64.90.545, unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional.

(4) Except as provided in RCW 64.90.080 and 64.90.545, this section and RCW 64.34.382 through 64.34.392 apply to condominiums governed by chapter 64.32 RCW or this chapter and intended in whole or in part for residential purposes. These sections do not apply to condominiums consisting solely of units that are restricted in the declaration to nonresidential use. An association's governing documents may contain stricter requirements.

Sec. 221. RCW 64.34.392 and 2009 c 307 s 1 are each amended to read as follows:

(1) Except as provided in RCW 64.90.080 and 64.90.545, a condominium association with ten or fewer unit owners is not required to follow the requirements under RCW 64.34.380 through 64.34.390 if two-thirds of the owners agree to exempt the association from the requirements.

(2) The unit owners must agree to maintain an exemption under subsection (1) of this section by a two-thirds vote every three years.

(3) Notwithstanding subsections (1) and (2) of this section, a disclosure that the condominium association does not have a reserve study must be included in a unit's public offering statement as required under RCW 64.34.410 or resale certificate as required under RCW 64.34.425.

Sec. 222. RCW 64.38.025 and 2011 c 189 s 8 are each amended to read as follows:

(1) Except as provided in the association's governing documents or this chapter, the board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board of directors shall exercise the degree of care and loyalty required of an officer or director of a corporation organized under chapter 24.03 RCW.

(2) The board of directors shall not act on behalf of the association to amend the articles of incorporation, to take any action that requires the vote or approval of the owners, to terminate the association, to elect members of the board of directors, or to determine the qualifications, powers, and duties, or terms of office of members of the board of directors; but the board of directors may fill vacancies in its membership of the unexpired portion of any term.

(3) Except as provided in RCW 64.90.080, 64.90.405(1) (b) and (c), and 64.90.525, within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of a majority of the votes in the association are allocated or any larger percentage specified in the governing documents reject the budget, in

person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget proposed by the board of directors.

(4) As part of the summary of the budget provided to all owners, the board of directors shall disclose to the owners:

(a) The current amount of regular assessments budgeted for contribution to the reserve account, the recommended contribution rate from the reserve study, and the funding plan upon which the recommended contribution rate is based;

(b) If additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each owner per month or year, and the purpose of the assessments;

(c) Based upon the most recent reserve study and other information, whether currently projected reserve account balances will be sufficient at the end of each year to meet the association's obligation for major maintenance, repair, or replacement of reserve components during the next thirty years;

(d) If reserve account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that sufficient reserve account funds will be available each year during the next thirty years, the approximate dates assessments may be due, and the amount of the assessments per owner per month or year;

(e) The estimated amount recommended in the reserve account at the end of the current fiscal year based on the most recent reserve study, the projected reserve account cash balance at the end of the current fiscal year, and the percent funded at the date of the latest reserve study;

(f) The estimated amount recommended in the reserve account based upon the most recent reserve study at the end of each of the next five budget years, the projected reserve account cash balance in each of those years, and the projected percent funded for each of those years; and

(g) If the funding plan approved by the association is implemented, the projected reserve account cash balance in each of the next five budget years and the percent funded for each of those years.

(5) The owners by a majority vote of the voting power in the association present, in person or by proxy, and entitled to vote at any meeting of the owners at which a quorum is present, may remove any member of the board of directors with or without cause.

Sec. 223. RCW 64.38.065 and 2011 c 189 s 9 are each amended to read as follows:

(1) An association is encouraged to establish a reserve account with a financial institution to fund major maintenance, repair, and replacement of common elements, including limited common elements that will require major maintenance, repair, or replacement within thirty years. If the association establishes a reserve account, the account must be in the name of the association. The board of directors is responsible for administering the reserve account.

(2) Except as provided in RCW 64.90.080 and 64.90.545, unless doing so would impose an unreasonable hardship, an association with significant assets shall prepare and update a reserve study, in accordance with the association's governing documents and this chapter. The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional.

(3) Except as provided in RCW 64.90.080 and 64.90.545, unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional.

(4) The decisions relating to the preparation and updating of a reserve study must be made by the board of directors in the exercise of the reasonable discretion of the board. The decisions must include whether a reserve study will be prepared or updated, and whether the assistance of a reserve study professional will be utilized.

Sec. 224. RCW 64.38.090 and 2011 c 189 s 14 are each amended to read as follows:

Except as provided in RCW 64.90.080 and 64.90.545, an association is not required to follow the reserve study requirements under RCW 64.38.025 and RCW 64.38.065 through 64.38.085 if the cost of the reserve study exceeds five percent of the association's annual budget, the association does not have significant assets, or there are ten or fewer homes in the association.

Sec. 225. RCW 64.38.095 and 2018 c 277 s 505 are each amended to read as follows:

(1) This chapter does not apply to common interest communities as defined in RCW 64.90.010:

~~((1))~~ (a) Created on or after July 1, 2018; or

~~((2))~~ (b) That have amended their governing documents to provide that chapter 64.90 RCW will apply to the common interest community pursuant to RCW 64.90.095.

(2) Pursuant to RCW 64.90.080, the following provisions of chapter 64.90 RCW apply, and any inconsistent provisions of this chapter do not apply, to a common interest community created before July 1, 2018:

(a) RCW 64.90.095;

(b) RCW 64.90.405(1) (b) and (c);

(c) RCW 64.90.525; and

(d) RCW 64.90.545.

Passed by the Senate April 19, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 239

[Senate Bill 6025]

BUMP-FIRE STOCK BUY-BACK PROGRAM--PUBLIC RECORDS ACT EXEMPTION

AN ACT Relating to bump-fire stock buy-back program records; amending RCW 42.56.230 and 42.56.230; 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:

Sec. 1. RCW 42.56.230 and 2017 3rd sp.s. c 6 s 222 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; or

(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.

(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;

(8) All information related to individual claims resolution structured 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.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in subsection (7)(c) and (d) of this section that is subject to public disclosure; (~~and~~)

(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; and

(10) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under RCW 43.43.920.

Sec. 2. RCW 42.56.230 and 2018 c 109 s 16 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; or

(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.

(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;

(8) All information related to individual claims resolution structured 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.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in subsection (7)(c) and (d) of this section that is subject to public disclosure;

(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; ~~(and)~~

(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; and

(11) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under RCW 43.43.920.

NEW SECTION. Sec. 3. The exemptions in this act apply to any public records requests made prior to the effective date of this act for which the disclosure of records has not already occurred.

NEW SECTION. Sec. 4. (1) Section 1 of this act expires July 1, 2019.
(2) Section 2 of this act takes effect July 1, 2019.

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 immediately.

Passed by the Senate April 28, 2019.

Passed by the House April 28, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

CHAPTER 240

[House Bill 1318]

PUBLIC ART FOR CAPITAL BUDGET PROJECTS--PERMANENT LANGUAGE

AN ACT Relating to making the public art capital budget language permanent for efficiency; and amending RCW 28B.10.027 and 43.17.200.

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

Sec. 1. RCW 28B.10.027 and 2018 c 2 s 7013 are each amended to read as follows:

(1) All universities and colleges shall allocate as a nondeductible item, out of any moneys appropriated for the original construction or any major renovation or remodel work exceeding two hundred thousand dollars of any building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission with the approval of the board of regents or trustees for the acquisition of works of art.

(2) For projects funded in the (~~(2015-2017 capital budget and the 2017-2019)~~) capital budget, an institution of higher education, working with the Washington state arts commission, may expend up to ten percent of the projected art allocation for a project during the design phase in order to select an artist and design art to be integrated in the building design. The one-half of one percent to be expended by the Washington state arts commission must be adjusted downward by the amount expended by a university or college during the design phase of the capital project.

(3) The works of art may be placed on public lands of institutions of higher education, integral to or attached to a public building or structure of institutions of higher education, detached within or outside a public building or structure of institutions of higher education, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities.

(4) In addition to the cost of the works of art, the one-half of one percent of the appropriation shall be used to provide for the administration of the visual arts program, including conservation of the state art collection, by the Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses, and other buildings of a temporary nature.

Sec. 2. RCW 43.17.200 and 2018 c 298 s 7016 are each amended to read as follows:

(1) All state agencies including all state departments, boards, councils, commissions, and quasi public corporations shall allocate, as a nondeductible item, out of any moneys appropriated for the original construction of any public building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art.

(2) ~~((During the 2017-2019 fiscal biennium,))~~ For projects funded in the capital budget, a state agency, working with the Washington state arts commission, may expend up to ten percent of the projected art allocation for a project during the design phase in order to select an artist and design art to be integrated in the building design. The one-half of one percent to be expended by the Washington state arts commission must be adjusted downward by the amount expended by a state agency during the design phase of the capital project.

(3) The works of art may be placed on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities.

(4) In addition to the cost of the works of art, the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration of the visual arts program, including conservation of the state art collection, by the Washington state arts commission and all costs for installation of the works of art. For the purpose of this section building shall not include highway construction sheds, warehouses, or other buildings of a temporary nature.

Passed by the House March 13, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 241

[Substitute House Bill 1071]

NOTICE OF PERSONAL INFORMATION DATA BREACHES--VARIOUS PROVISIONS

AN ACT Relating to breach of security systems protecting personal information; amending RCW 19.255.010 and 42.56.590; adding new sections to chapter 19.255 RCW; adding new sections to chapter 42.56 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 19.255 RCW to read as follows:

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

(1) "Breach of the security of the system" means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the

purposes of the person or business is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(2)(a) "Personal information" means:

(i) An individual's first name or first initial and last name in combination with any one or more of the following data elements:

(A) Social security number;

(B) Driver's license number or Washington identification card number;

(C) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account, or any other numbers or information that can be used to access a person's financial account;

(D) Full date of birth;

(E) Private key that is unique to an individual and that is used to authenticate or sign an electronic record;

(F) Student, military, or passport identification number;

(G) Health insurance policy number or health insurance identification number;

(H) Any information about a consumer's medical history or mental or physical condition or about a health care professional's medical diagnosis or treatment of the consumer; or

(I) Biometric data generated by automatic measurements of an individual's biological characteristics such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual;

(ii) Username or email address in combination with a password or security questions and answers that would permit access to an online account; and

(iii) Any of the data elements or any combination of the data elements described in (a)(i) of this subsection without the consumer's first name or first initial and last name if:

(A) Encryption, redaction, or other methods have not rendered the data element or combination of data elements unusable; and

(B) The data element or combination of data elements would enable a person to commit identity theft against a consumer.

(b) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(3) "Secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person.

Sec. 2. RCW 19.255.010 and 2015 c 64 s 2 are each amended to read as follows:

(1) Any person or business that conducts business in this state and that owns or licenses data that includes personal information shall disclose any breach of the security of the system (~~following discovery or notification of the breach in the security of the data~~) to any resident of this state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. Notice is not required if the

breach of the security of the system is not reasonably likely to subject consumers to a risk of harm. The breach of secured personal information must be disclosed if the information acquired and accessed is not secured during a security breach or if the confidential process, encryption key, or other means to decipher the secured information was acquired by an unauthorized person.

(2) Any person or business that maintains or possesses data that may include~~(s)~~ personal information that the person or business does not own or license shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if the data owner or licensee contacts a law enforcement agency after discovery of a breach of the security of the system and a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

~~(4) ((For purposes of this section, "breach of the security of the system" means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.~~

~~(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements:~~

- ~~(a) Social security number;~~
- ~~(b) Driver's license number or Washington identification card number; or~~
- ~~(c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.~~

~~(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.~~

~~(7) For purposes of this section, "secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology (NIST) standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person.~~

~~(8)) For purposes of this section and except under subsection~~((s-9) and (40))~~ (5) of this section and section 3 of this act, ~~((l))~~notice~~((l))~~ may be provided by one of the following methods:~~

- ~~(a) Written notice;~~
- ~~(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; ~~((e))~~~~
- ~~(c) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or~~

the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

(i) Email notice when the person or business has an email address for the subject persons;

(ii) Conspicuous posting of the notice on the web site page of the person or business, if the person or business maintains one; and

(iii) Notification to major statewide media; or

(d)(i) If the breach of the security of the system involves personal information including a user name or password, notice may be provided electronically or by email. The notice must comply with subsections (6), (7), and (8) of this section and must inform the person whose personal information has been breached to promptly change his or her password and security question or answer, as applicable, or to take other appropriate steps to protect the online account with the person or business and all other online accounts for which the person whose personal information has been breached uses the same user name or email address and password or security question or answer;

(ii) However, when the breach of the security of the system involves login credentials of an email account furnished by the person or business, the person or business may not provide the notification to that email address, but must provide notice using another method described in this subsection (4). The notice must comply with subsections (6), (7), and (8) of this section and must inform the person whose personal information has been breached to promptly change his or her password and security question or answer, as applicable, or to take other appropriate steps to protect the online account with the person or business and all other online accounts for which the person whose personal information has been breached uses the same user name or email address and password or security question or answer.

~~((9))~~ (5) A person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

~~((10) A covered entity under the federal health insurance portability and accountability act of 1996, 42 U.S.C. Sec. 1320d et seq., is deemed to have complied with the requirements of this section with respect to protected health information if it has complied with section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on July 24, 2015. Covered entities shall notify the attorney general pursuant to subsection (15) of this section in compliance with the timeliness of notification requirements of section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on July 24, 2015, notwithstanding the notification requirement in subsection (16) of this section.~~

~~(11) A financial institution under the authority of the office of the comptroller of the currency, the federal deposit insurance corporation, the national credit union administration, or the federal reserve system is deemed to have complied with the requirements of this section with respect to "sensitive customer information" as defined in the interagency guidelines establishing~~

~~information security standards, 12 C.F.R. Part 30, Appendix B, 12 C.F.R. Part 208, Appendix D-2, 12 C.F.R. Part 225, Appendix F, and 12 C.F.R. Part 364, Appendix B, and 12 C.F.R. Part 748, Appendices A and B, as they existed on July 24, 2015, if the financial institution provides notice to affected consumers pursuant to the interagency guidelines and the notice complies with the customer notice provisions of the interagency guidelines establishing information security standards and the interagency guidance on response programs for unauthorized access to customer information and customer notice under 12 C.F.R. Part 364 as it existed on July 24, 2015. The entity shall notify the attorney general pursuant to subsection (15) of this section in addition to providing notice to its primary federal regulator.~~

~~(12) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.~~

~~(13)(a) Any consumer injured by a violation of this section may institute a civil action to recover damages.~~

~~(b) Any person or business that violates, proposes to violate, or has violated this section may be enjoined.~~

~~(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.~~

~~(14)) (6) Any person or business that is required to issue notification pursuant to this section shall meet all of the following requirements:~~

~~(a) The notification must be written in plain language; and~~

~~(b) The notification must include, at a minimum, the following information:~~

~~(i) The name and contact information of the reporting person or business subject to this section;~~

~~(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach; ~~(and)~~~~

~~(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach; and~~

~~(iv) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed personal information.~~

~~((15)) (7) Any person or business that is required to issue a notification pursuant to this section to more than five hundred Washington residents as a result of a single breach shall ~~(, by the time notice is provided to affected consumers, electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the attorney general)~~ notify the attorney general of the breach no more than thirty days after the breach was discovered.~~

~~(a) The ~~((person or business))~~ notice to the attorney general shall ~~((also provide to the attorney general))~~ include the following information:~~

~~(i) The number of Washington consumers affected by the breach, or an estimate if the exact number is not known;~~

~~(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;~~

~~(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach;~~

~~(iv) A summary of steps taken to contain the breach; and~~

~~(v) A single sample copy of the security breach notification, excluding any personally identifiable information.~~

(b) The notice to the attorney general must be updated if any of the information identified in (a) of this subsection is unknown at the time notice is due.

~~((16)) (8) Notification to affected consumers ((and to the attorney general)) under this section must be made in the most expedient time possible ((and)), without unreasonable delay, and no more than ((forty-five)) thirty calendar days after the breach was discovered, unless the delay is at the request of law enforcement as provided in subsection (3) of this section, or the delay is due to any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.~~

~~((17) The attorney general may bring an action in the name of the state, or as parens patriae on behalf of persons residing in the state, to enforce this section. For actions brought by the attorney general to enforce 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. For actions brought by the attorney general to enforce this section, 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 purposes of applying the consumer protection act, chapter 19.86 RCW. An action to enforce this section may not be brought under RCW 19.86.090.)~~

NEW SECTION. Sec. 3. A new section is added to chapter 19.255 RCW to read as follows:

(1) A covered entity under the federal health insurance portability and accountability act of 1996, 42 U.S.C. Sec. 1320d et seq., is deemed to have complied with the requirements of this chapter with respect to protected health information if it has complied with section 13402 of the federal health information technology for economic and clinical health act, P.L. 111-5 as it existed on July 24, 2015. Covered entities shall notify the attorney general pursuant to RCW 19.255.010(7) in compliance with the timeliness of notification requirements of section 13402 of the federal health information technology for economic and clinical health act, P.L. 111-5 as it existed on July 24, 2015, notwithstanding the timeline in RCW 19.255.010(7).

(2) A financial institution under the authority of the office of the comptroller of the currency, the federal deposit insurance corporation, the national credit union administration, or the federal reserve system is deemed to have complied with the requirements of this chapter with respect to "sensitive customer information" as defined in the interagency guidelines establishing information security standards, 12 C.F.R. Part 30, Appendix B, 12 C.F.R. Part 208, Appendix D-2, 12 C.F.R. Part 225, Appendix F, and 12 C.F.R. Part 364, Appendix B, and 12 C.F.R. Part 748, Appendices A and B, as they existed on July 24, 2015, if the financial institution provides notice to affected consumers pursuant to the interagency guidelines and the notice complies with the customer notice provisions of the interagency guidelines establishing information security standards and the interagency guidance on response programs for unauthorized access to customer information and customer notice under 12 C.F.R. Part 364 as it existed on July 24, 2015. The entity shall notify the attorney general pursuant to RCW 19.255.010 in addition to providing notice to its primary federal regulator.

NEW SECTION. Sec. 4. A new section is added to chapter 19.255 RCW to read as follows:

(1) Any waiver of the provisions of this chapter is contrary to public policy, and is void and unenforceable.

(2) The attorney general may bring an action in the name of the state, or as parens patriae on behalf of persons residing in the state, to enforce this chapter. For actions brought by the attorney general to enforce this chapter, the legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. For actions brought by the attorney general to enforce this chapter, a violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for purposes of applying the consumer protection act, chapter 19.86 RCW. An action to enforce this chapter may not be brought under RCW 19.86.090.

(3)(a) Any consumer injured by a violation of this chapter may institute a civil action to recover damages.

(b) Any person or business that violates, proposes to violate, or has violated this chapter may be enjoined.

(c) The rights and remedies available under this chapter are cumulative to each other and to any other rights and remedies available under law.

Sec. 5. RCW 42.56.590 and 2015 c 64 s 3 are each amended to read as follows:

(1)~~((a))~~ Any agency that owns or licenses data that includes personal information shall disclose any breach of the security of the system ~~((following discovery or notification of the breach in the security of the data))~~ to any resident of this state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. Notice is not required if the breach of the security of the system is not reasonably likely to subject consumers to a risk of harm. The breach of secured personal information must be disclosed if the information acquired and accessed is not secured during a security breach or if the confidential process, encryption key, or other means to decipher the secured information was acquired by an unauthorized person.

~~((b) For purposes of this section, "agency" means the same as in RCW 42.56.010.)~~

(2) Any agency that maintains or possesses data that may include~~((s))~~ personal information that the agency does not own or license shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if the data owner or licensee contacts a law enforcement agency after discovery of a breach of the security of the system and a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) ~~((For purposes of this section, "breach of the security of the system" means unauthorized acquisition of data that compromises the security,~~

confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

~~(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements:~~

~~(a) Social security number;~~

~~(b) Driver's license number or Washington identification card number; or~~

~~(c) Full account number, credit or debit card number, or any required security code, access code, or password that would permit access to an individual's financial account.~~

~~(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.~~

~~(7) For purposes of this section, "secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology (NIST) standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person.~~

~~(8))~~ ~~(9) and~~ ~~(10))~~ (5) of this section and section 6 of this act, notice may be provided by one of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or

(c) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(i) Email notice when the agency has an email address for the subject persons;

(ii) Conspicuous posting of the notice on the agency's web site page, if the agency maintains one; and

(iii) Notification to major statewide media.

~~((9))~~ (5) An agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

~~((10) A covered entity under the federal health insurance portability and accountability act of 1996, 42 U.S.C. Sec. 1320d et seq., is deemed to have complied with the requirements of this section with respect to protected health information if it has complied with section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on July 24, 2015. Covered entities shall notify the attorney general pursuant to subsection (14) of this section in compliance with the timeliness of~~

~~notification requirements of section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on July 24, 2015, notwithstanding the notification requirement in subsection (15) of this section.~~

~~(11) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.~~

~~(12)(a) Any individual injured by a violation of this section may institute a civil action to recover damages.~~

~~(b) Any agency that violates, proposes to violate, or has violated this section may be enjoined.~~

~~(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.~~

~~(13)) (6) Any agency that is required to issue notification pursuant to this section shall meet all of the following requirements:~~

~~(a) The notification must be written in plain language; and~~

~~(b) The notification must include, at a minimum, the following information:~~

~~(i) The name and contact information of the reporting agency subject to this section;~~

~~(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;~~

~~(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach; and~~

~~(iv) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed personal information.~~

~~((14)) (7) Any agency that is required to issue a notification pursuant to this section to more than five hundred Washington residents as a result of a single breach shall ~~(, by the time notice is provided to affected individuals, electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to)~~ notify the attorney general of the breach no more than thirty days after the breach was discovered.~~

~~(a) The ~~(agency shall also provide)~~ notice to the attorney general must include the following information:~~

~~(i) The number of Washington residents affected by the breach, or an estimate if the exact number is not known;~~

~~(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;~~

~~(iii) A time frame of exposure, if known, including the date of the breach and the date of the discovery of the breach;~~

~~(iv) A summary of steps taken to contain the breach; and~~

~~(v) A single sample copy of the security breach notification, excluding any personally identifiable information.~~

~~(b) The notice to the attorney general must be updated if any of the information identified in (a) of this subsection is unknown at the time notice is due.~~

~~((15)) (8) Notification to affected individuals ~~((and to the attorney general))~~ must be made in the most expedient time possible ~~((and))~~, without unreasonable delay, and no more than ~~((forty five))~~ thirty calendar days after the breach was discovered, unless the delay is at the request of law enforcement as provided in subsection (3) of this section, or the delay is due to any measures~~

necessary to determine the scope of the breach and restore the reasonable integrity of the data system. An agency may delay notification to the consumer for up to an additional fourteen days to allow for notification to be translated into the primary language of the affected consumers.

(9) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(10)(a) For purposes of this section, "personal information" means:

(i) An individual's first name or first initial and last name in combination with any one or more of the following data elements:

(A) Social security number;

(B) Driver's license number or Washington identification card number;

(C) Account number, credit or debit card number, or any required security code, access code, or password that would permit access to an individual's financial account, or any other numbers or information that can be used to access a person's financial account;

(D) Full date of birth;

(E) Private key that is unique to an individual and that is used to authenticate or sign an electronic record;

(F) Student, military, or passport identification number;

(G) Health insurance policy number or health insurance identification number;

(H) Any information about a consumer's medical history or mental or physical condition or about a health care professional's medical diagnosis or treatment of the consumer; or

(I) Biometric data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual;

(ii) User name or email address in combination with a password or security questions and answers that would permit access to an online account; and

(iii) Any of the data elements or any combination of the data elements described in (a)(i) of this subsection without the consumer's first name or first initial and last name if:

(A) Encryption, redaction, or other methods have not rendered the data element or combination of data elements unusable; and

(B) The data element or combination of data elements would enable a person to commit identity theft against a consumer.

(b) Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(11) For purposes of this section, "secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person.

NEW SECTION. Sec. 6. A new section is added to chapter 42.56 RCW to read as follows:

A covered entity under the federal health insurance portability and accountability act of 1996, Title 42 U.S.C. Sec. 1320d et seq., is deemed to have complied with the requirements of this chapter with respect to protected health information if it has complied with section 13402 of the federal health information technology for economic and clinical health act, P.L. 111-5 as it existed on July 24, 2015. Covered entities shall notify the attorney general pursuant to RCW 42.56.590(7) in compliance with the timeliness of notification requirements of section 13402 of the federal health information technology for economic and clinical health act, P.L. 111-5 as it existed on July 24, 2015, notwithstanding the timeline in RCW 42.56.590(7).

NEW SECTION. Sec. 7. A new section is added to chapter 42.56 RCW to read as follows:

(1) Any waiver of the provisions of RCW 42.56.590 or section 6 of this act is contrary to public policy, and is void and unenforceable.

(2)(a) Any consumer injured by a violation of RCW 42.56.590 may institute a civil action to recover damages.

(b) Any agency that violates, proposes to violate, or has violated RCW 42.56.590 may be enjoined.

(c) The rights and remedies available under RCW 42.56.590 are cumulative to each other and to any other rights and remedies available under law.

NEW SECTION. Sec. 8. This act takes effect March 1, 2020.

Passed by the House April 22, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 242

[Engrossed Substitute Senate Bill 5035]

PREVAILING WAGE--NONPAYMENT

AN ACT Relating to enhancing the prevailing wage laws to ensure contractor and owner accountability and worker protection; amending RCW 39.12.010, 39.12.050, and 39.12.065; adding a new section to chapter 39.12 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds:

(1) That from the shift in the 1980s from criminal to civil penalties for prevailing wage violations that the law needs some enhancements to effectively provide the department of labor and industries with the ability to utilize its civil remedies to both discourage and penalize repeat and willful violations of the law.

(2) Revisions to chapter 39.12 RCW are long overdue and are necessary to appropriately address filing and reporting procedures and penalties, which are necessary to strengthen enforcement of and deterrence from repeat and/or willful violations of the chapter.

Sec. 2. RCW 39.12.010 and 1989 c 12 s 6 are each amended to read as follows:

(1) The "prevailing rate of wage" ~~((for the intents and purposes of this chapter, shall be))~~ is the rate of hourly wage, usual benefits, and overtime paid in the locality, as hereinafter defined, to the majority of workers, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation ((shall be)) is the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage ((for the purposes of this chapter shall be)) is mathematically determined by the number of hours worked in such period of time.

(2) The "locality" ~~((for the purposes of this chapter shall be))~~ is the largest city in the county wherein the physical work is being performed.

(3) The "usual benefits" ~~((for the purposes of this chapter shall))~~ includes the amount of:

(a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(b) The rate of costs to the contractor or subcontractor, which may be reasonably anticipated in providing benefits to workers, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workers, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of such benefits.

(4) An "interested party" ~~((for the purposes of this chapter shall))~~ includes a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of labor and industries or the director's designee.

(5) An "inadvertent filing or reporting error" is a mistake and is made notwithstanding the use of due care by the contractor, subcontractor, or employer. An inadvertent filing or reporting error includes a contractor who, in good faith, relies on a written determination provided by the department of labor and industries and pays its workers, laborers, and mechanics accordingly, but is later found to have not paid the proper prevailing wage rate.

(6) "Unpaid prevailing wages" or "unpaid wages" means the employer fails to pay all of the prevailing rate of wages owed for any workweek by the regularly established pay day for the period in which the workweek ends. Every employer must pay all wages, other than usual benefits, owing to its employees not less than once a month. Every employer must pay all usual benefits owing to its employees by the regularly established deadline for those benefits.

(7) "Rate of contribution" means the effective annual rate of usual benefit contributions for all hours, public and private, worked during the year by an

employee (commonly referred to as "annualization" of benefits). The only exemption to the annualization requirements is for defined contribution pension plans that have immediate participation and vesting.

Sec. 3. RCW 39.12.050 and 2009 c 219 s 3 are each amended to read as follows:

(1) Any contractor or subcontractor who files a false statement or fails to file any statement or record required to be filed or fails to post a document required to be posted under this chapter and the rules adopted under this chapter, shall, after a determination to that effect has been issued by the director after hearing under chapter 34.05 RCW, forfeit as a civil penalty the sum of five hundred dollars for each false filing or failure to file or post, and shall not be permitted to bid, or have a bid considered, on any public works contract until the penalty has been paid in full to the director. The civil penalty under this subsection (~~shall~~) does not apply to a violation determined by the director to be an inadvertent filing or reporting error. The burden of proving, by a preponderance of the evidence, that an error is inadvertent rests with the contractor or subcontractor charged with the error. Civil penalties shall be deposited in the public works administration account.

To the extent that a contractor or subcontractor has not paid wages at the rate due pursuant to RCW 39.12.020, and a finding to that effect has been made as provided by this subsection, such unpaid wages (~~shall~~) constitute a lien against the bonds and retainage as provided in RCW 18.27.040, 19.28.041, 39.08.010, and 60.28.011.

(2) If a contractor or subcontractor is found to have violated the provisions of subsection (1) of this section for a second time within a five year period, the contractor or subcontractor (~~shall be~~) is subject to the sanctions prescribed in subsection (1) of this section and shall not be allowed to bid on any public works contract for one year. The one year period (~~shall~~) runs from the date of notice by the director of the determination of noncompliance. When an appeal is taken from the director's determination, the one year period (~~shall~~) commences from the date (~~of the final determination of the appeal~~) the notice of violation becomes final.

The director shall issue his or her findings that a contractor or subcontractor has violated the provisions of this subsection after a hearing held subject to the provisions of chapter 34.05 RCW, unless a notice of violation is not timely appealed. A notice of violation not timely appealed is final and binding, and not subject to further appeal.

Sec. 4. RCW 39.12.065 and 2009 c 219 s 4 are each amended to read as follows:

(1) Upon complaint by an interested party, the director of labor and industries shall cause an investigation to be made to determine whether there has been compliance with this chapter and the rules adopted hereunder, and if the investigation indicates that a violation may have occurred, the department of labor and industries may issue a notice of violation for unpaid wages, penalties, and interest on all wages owed at one percent per month. A hearing shall be held following a timely appeal of the notice of violation in accordance with chapter 34.05 RCW. The director shall issue a written determination including his or her findings after the hearing unless a notice of violation is not timely appealed. A

notice of violation not timely appealed is final and binding, and not subject to further appeal. A judicial appeal from the director's determination may be taken in accordance with chapter 34.05 RCW, with the prevailing party entitled to recover reasonable costs and attorneys' fees.

A complaint concerning nonpayment of the prevailing rate of wage shall be filed with the department of labor and industries no later than ~~((thirty))~~ sixty days from the acceptance date of the public works project. The department may not charge a contractor or subcontractor with a violation of this section when responding to a complaint filed after the sixty-day limit. The failure to timely file such a complaint ~~((shall))~~ does not prohibit the department from investigating the matter and recovering unpaid wages for the worker(s) within two years from the acceptance of the public works contract. The department may not investigate or recover unpaid wages if the complaint is filed after two years from the acceptance of a public works contract. The failure to timely file such a complaint also does not prohibit a claimant from pursuing a private right of action against a contractor or subcontractor for unpaid prevailing wages. The remedy provided by this section is not exclusive and is concurrent with any other remedy provided by law.

(2) To the extent that a contractor or subcontractor has not paid the prevailing rate of wage under a determination issued as provided in subsection (1) of this section, the director shall notify the agency awarding the public works contract of the amount of the violation found, and the awarding agency shall withhold, or in the case of a bond, the director shall proceed against the bond in accordance with the applicable statute to recover, such amount from the following sources in the following order of priority until the total of such amount is withheld:

(a) The retainage or bond in lieu of retainage as provided in RCW 60.28.011;

(b) If the claimant was employed by the contractor or subcontractor on the public works project, the bond filed by the contractor or subcontractor with the department of labor and industries as provided in RCW 18.27.040 and 19.28.041;

(c) A surety bond, or at the contractor's or subcontractor's option an escrow account, running to the director in the amount of the violation found; and

(d) That portion of the progress payments which is properly allocable to the contractor or subcontractor who is found to be in violation of this chapter. Under no circumstances shall any portion of the progress payments be withheld that are properly allocable to a contractor, subcontractor, or supplier, that is not found to be in violation of this chapter.

The amount withheld shall be released to the director to distribute in accordance with the director's determination.

(3) A contractor or subcontractor that is found, in accordance with subsection (1) of this section, to have violated the requirement to pay the prevailing rate of wage ~~((shall be))~~ is subject to a civil penalty of not less than ~~((one))~~ five thousand dollars or an amount equal to ~~((twenty))~~ fifty percent of the total prevailing wage violation found on the contract, whichever is greater, interest on all wages owed at one percent per month, and ((shall) is not ((be)) permitted to bid, or have a bid considered, on any public works contract until such civil penalty has been paid in full to the director. If a contractor or

subcontractor is found to have participated in a violation of the requirement to pay the prevailing rate of wage for a second time within a five-year period, the contractor or subcontractor (~~shall be~~) is subject to the sanctions prescribed in this subsection and as an additional sanction (~~shall~~) is not (~~be~~) allowed to bid on any public works contract for two years. Civil penalties shall be deposited in the public works administration account. If a previous or subsequent violation of a requirement to pay a prevailing rate of wage under federal or other state law is found against the contractor or subcontractor within five years from a violation under this section, the contractor or subcontractor shall not be allowed to bid on any public works contract for two years. The two-year period runs from the date of notice by the director of the determination of noncompliance. When an appeal is taken from the director's determination, the two-year period commences from the date the notice of violation becomes final. A contractor or subcontractor (~~shall~~) is not (~~be~~) barred from bidding on any public works contract if the contractor or subcontractor relied upon written information from the department to pay a prevailing rate of wage that is later determined to be in violation of this chapter. The civil penalty and sanctions under this subsection (~~shall~~) do not apply to a violation determined by the director to be an inadvertent filing or reporting error. The burden of proving, by a preponderance of the evidence, that an error is inadvertent rests with the contractor or subcontractor charged with the error. To the extent that a contractor or subcontractor has not paid the prevailing wage rate under a determination issued as provided in subsection (1) of this section, the unpaid wages (~~shall~~) constitute a lien against the bonds and retainage as provided herein and in RCW 18.27.040, 19.28.041, 39.08.010, and 60.28.011.

(4) The director may waive or reduce a penalty or additional sanction under this section including, but not limited to, when the director determines the contractor or subcontractor paid all wages and interest or there was an inadvertent filing or reporting error. The director may not waive or reduce interest. The department of labor and industries shall submit a report of the waivers made under this section, including a justification for any waiver made, upon request of an interested party.

(5) If, after the department of labor and industries initiates an investigation and before a notice of violation of unpaid wages, the contractor or subcontractor pays the unpaid wages identified in the investigation, interest on all wages owed at one percent per month, and penalties in the amount of one thousand dollars or twenty percent of the total prevailing wage violation determined by the department of labor and industries, whichever is greater, then the violation is considered resolved without further penalty under subsection (3) of this section.

(6) A contractor or subcontractor may only utilize the process outlined in subsection (5) of this section if the department of labor and industries has not issued a notice of violation that resulted in final judgment under this section against that contractor or subcontractor in the last five-year period. If a contractor or subcontractor utilizes the process outlined in subsection (5) of this section for a second time within a five-year period, the contractor or subcontractor is subject to the sanctions prescribed in subsection (3) of this section and may not be allowed to bid on any public works contract for two years.

NEW SECTION. **Sec. 5.** A new section is added to chapter 39.12 RCW to read as follows:

(1) Each contractor, subcontractor, or employer shall keep accurate payroll records for three years from the date of acceptance of the public works project by the contract awarding agency, showing the employee's full name, address, social security number, trade or occupation, classification, straight and overtime rates, hourly rate of usual benefits, and hours worked each day and week, including any employee authorizations executed pursuant to RCW 49.28.065, and the actual gross wages, itemized deductions, withholdings, and net wages paid, for each laborer, worker, and mechanic employed by the contractor for work performed on a public works project.

(2) A contractor, subcontractor, or employer shall file a copy of its certified payroll records using the department of labor and industries' online system at least once per month. If the department of labor and industries' online system is not used, a contractor, subcontractor, or employer shall file a copy of its certified payroll records directly with the department of labor and industries in a format approved by the department of labor and industries at least once per month.

(3) A contractor, subcontractor, or employer's noncompliance with this section constitutes a violation of RCW 39.12.050.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2020.

Passed by the Senate April 19, 2019.

Passed by the House April 10, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 243

[Substitute House Bill 1739]

UNDETECTABLE AND UNTRACEABLE FIREARMS

AN ACT Relating to firearms that are undetectable or untraceable; amending RCW 9.41.010, 9.41.190, and 9.41.220; reenacting and amending RCW 9.94A.515; creating a new section; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 9.41.010 and 2019 c 3 s 16 (Initiative Measure No. 1639) are each 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) "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.

(3) "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.

(4) "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.

(5) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(6) "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.

(7) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

(8) "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.

(9) "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.

(10) "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.

(11) "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.

(12) "Gun" has the same meaning as firearm.

(13) "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.

(14) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(15) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(16) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(17) "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.

(18) "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.

(19) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(20) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(21) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

(22) "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.

(23) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(24) "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.

(25) "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.

"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.

(26) "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 ten years;
- (c) Child molestation in the second degree;
- (d) Incest when committed against a child under age fourteen;
- (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.

(27) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen 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 twenty-six inches.

(28) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen 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 twenty-six inches.

(29) "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.

(30) "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.

(31) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(32) "Manufacture" means, with respect to a firearm, the fabrication or construction of a firearm.

(33) "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.

(34) "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 federally licensed manufacturer or importer.

NEW SECTION. Sec. 2. (1) No person may knowingly or recklessly allow, facilitate, aid, or abet the manufacture or assembly of an undetectable firearm or untraceable firearm by a person who: (a) Is ineligible under state or federal law to possess a firearm; or (b) has signed a valid voluntary waiver of firearm rights that has not been revoked under RCW 9.41.350. For purposes of this provision, the failure to conduct a background check as provided in RCW 9.41.113 shall be prima facie evidence of recklessness.

(2)(a) Any person violating this section is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(b) If a person previously has been found guilty under this section, then the person is guilty of a class C felony punishable under chapter 9A.20 RCW for each subsequent knowing violation of this section. A person is guilty of a separate offense for each and every firearm to which this section applies.

Sec. 3. RCW 9.41.190 and 2018 c 7 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this section, it is unlawful for any person to:

(a) Manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle;

(b) Manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any part designed and intended solely and exclusively for use in a machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machine gun, short-barreled shotgun, or short-barreled rifle; ((~~or~~))

(c) Assemble or repair any machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle; or

(d) Manufacture an untraceable firearm with the intent to sell the untraceable firearm.

(2) It is not unlawful for a person to manufacture, own, buy, sell, loan, furnish, transport, assemble, or repair, or have in possession or under control, a short-barreled rifle, or any part designed or intended solely and exclusively for use in a short-barreled rifle or in converting a weapon into a short-barreled rifle, if the person is in compliance with applicable federal law.

(3) Subsection (1) of this section shall not apply to:

(a) Any peace officer in the discharge of official duty or traveling to or from official duty, or to any officer or member of the armed forces of the United States or the state of Washington in the discharge of official duty or traveling to or from official duty; or

(b) A person, including an employee of such person if the employee has undergone fingerprinting and a background check, who or which is exempt from or licensed under federal law, and engaged in the production, manufacture, repair, or testing of machine guns, bump-fire stocks, short-barreled shotguns, or short-barreled rifles:

(i) To be used or purchased by the armed forces of the United States;

(ii) To be used or purchased by federal, state, county, or municipal law enforcement agencies; or

(iii) For exportation in compliance with all applicable federal laws and regulations.

(4) It shall be an affirmative defense to a prosecution brought under this section that the machine gun or short-barreled shotgun was acquired prior to July 1, 1994, and is possessed in compliance with federal law.

(5) Any person violating this section is guilty of a class C felony.

Sec. 4. RCW 9.41.220 and 2018 c 7 s 4 are each amended to read as follows:

All machine guns, bump-fire stocks, undetectable firearms, short-barreled shotguns, or short-barreled rifles, or any part designed and intended solely and exclusively for use in a machine gun, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machine gun, short-barreled shotgun, or short-barreled rifle, illegally held or illegally possessed are hereby declared to be contraband, and it shall be the duty of all peace officers, and/or any officer or member of the armed forces of the United States or the state of Washington, to seize said machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle, or parts thereof, wherever and whenever found.

Sec. 5. RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

XVI Aggravated Murder 1 (RCW 10.95.020)

XV Homicide by abuse (RCW 9A.32.055)

- Malicious explosion 1 (RCW 70.74.280(1))
- Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)
- Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))
- Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
- Assault of a Child 1 (RCW 9A.36.120)
- Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
- Rape 1 (RCW 9A.44.040)
- Rape of a Child 1 (RCW 9A.44.073)
- Trafficking 2 (RCW 9A.40.100(3))
- XI Manslaughter 1 (RCW 9A.32.060)
- Rape 2 (RCW 9A.44.050)
- Rape of a Child 2 (RCW 9A.44.076)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- X Child Molestation 1 (RCW 9A.44.083)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
- Kidnapping 1 (RCW 9A.40.020)
- Leading Organized Crime (RCW 9A.82.060(1)(a))
- Malicious explosion 3 (RCW 70.74.280(3))
- Sexually Violent Predator Escape (RCW 9A.76.115)

- IX Abandonment of Dependent Person 1
(RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)
- Explosive devices prohibited (RCW
70.74.180)
- Hit and Run—Death (RCW
46.52.020(4)(a))
- Homicide by Watercraft, by being under
the influence of intoxicating liquor or
any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW
9A.82.060(1)(b))
- Malicious placement of an explosive 2
(RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- VIII Arson 1 (RCW 9A.48.020)
- Commercial Sexual Abuse of a Minor
(RCW 9.68A.100)
- Homicide by Watercraft, by the operation
of any vessel in a reckless manner
(RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Promoting Prostitution 1 (RCW
9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- VII Air bag diagnostic systems (causing
bodily injury or death) (RCW
46.37.660(2)(b))
- Air bag replacement requirements
(causing bodily injury or death)
(RCW 46.37.660(1)(b))
- Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW
9A.48.120)
- Dealing in depictions of minor engaged in
sexually explicit conduct 1 (RCW
9.68A.050(1))
- Drive-by Shooting (RCW 9A.36.045)

- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))

- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
 - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
 - Air bag diagnostic systems (RCW 46.37.660(2)(c))
 - Air bag replacement requirements (RCW 46.37.660(1)(c))
 - Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
 - Child Molestation 3 (RCW 9A.44.089)
 - Criminal Mistreatment 2 (RCW 9A.42.030)
 - Custodial Sexual Misconduct 1 (RCW 9A.44.160)
 - Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
 - Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~), 26.26B.050, 26.50.110, 26.52.070, or 74.34.145)
 - Extortion 1 (RCW 9A.56.120)
 - Extortionate Extension of Credit (RCW 9A.82.020)
 - Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
 - Incest 2 (RCW 9A.64.020(2))
 - Kidnapping 2 (RCW 9A.40.030)

- Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
- Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))

Driving While Under the Influence (RCW 46.61.502(6))

Endangerment with a Controlled Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)

Hit and Run—Injury (RCW 46.52.020(4)(b))

Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)

Influencing Outcome of Sporting Event (RCW 9A.82.070)

Malicious Harassment (RCW 9A.36.080)

Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

- Unlicensed practice as an insurance professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Criminal Gang Intimidation (RCW 9A.46.120)
- Custodial Assault (RCW 9A.36.100)
- Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW 9A.76.180)
- Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property
(RCW 81.60.070)

Manufacture of Untraceable Firearm with
Intent to Sell (RCW 9.41.190)

Manufacture or Assembly of an
Undetectable Firearm or Untraceable
Firearm (section 2 of this act)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily
Harm By Use of a Signal Preemption
Device (RCW 46.37.674)

Organized Retail Theft 1 (RCW
9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW
9.40.120)

Possession of Machine Gun, Bump-fire
Stock, Undetectable Firearm, or
Short-Barreled Shotgun or Rifle
(RCW 9.41.190)

Promoting Prostitution 2 (RCW
9A.88.080)

Retail Theft with Special Circumstances 1
(RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW
9A.72.120)

Telephone Harassment (subsequent
conviction or threat of death) (RCW
9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Theft with the Intent to Resell 1 (RCW
9A.56.340(2))

Trafficking in Stolen Property 2 (RCW
9A.82.055)

Unlawful Hunting of Big Game 1 (RCW
77.15.410(3)(b))

Unlawful Imprisonment (RCW
9A.40.040)

- Unlawful Misbranding of (~~Food~~) Fish or Shellfish 1 (RCW 77.140.060(3))
- Unlawful possession of firearm in the second degree (RCW 9A.04.040(2))
- Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
- Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
 - Computer Trespass 1 (RCW 9A.90.040)
 - Counterfeiting (RCW 9.16.035(3))
 - Electronic Data Service Interference (RCW 9A.90.060)
 - Electronic Data Tampering 1 (RCW 9A.90.080)
 - Electronic Data Theft (RCW 9A.90.100)
 - Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
 - Escape from Community Custody (RCW 72.09.310)
 - Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)
 - Health Care False Claims (RCW 48.80.030)
 - Identity Theft 2 (RCW 9.35.020(3))
 - Improperly Obtaining Financial Information (RCW 9.35.010)
 - Malicious Mischief 1 (RCW 9A.48.070)
 - Organized Retail Theft 2 (RCW 9A.56.350(3))

- Possession of Stolen Property 1 (RCW 9A.56.150)
- Possession of a Stolen Vehicle (RCW 9A.56.068)
- Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))
- Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)
- Theft 1 (RCW 9A.56.030)
- Theft of a Motor Vehicle (RCW 9A.56.065)
- Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at five thousand dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism 1 (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)

- Fraudulent Creation or Revocation of a
Mental Health Advance Directive
(RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW
9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Spotlighting Big Game 1 (RCW
77.15.450(3)(b))
- Suspension of Department Privileges 1
(RCW 77.15.670(3)(b))
- Taking Motor Vehicle Without
Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft from a Vulnerable Adult 2 (RCW
9A.56.400(2))
- Theft of Rental, Leased, Lease-purchased,
or Loaned Property (valued at seven
hundred fifty dollars or more but less
than five thousand dollars) (RCW
9A.56.096(5)(b))
- Transaction of insurance business beyond
the scope of licensure (RCW
48.17.063)
- Unlawful Fish and Shellfish Catch
Accounting (RCW 77.15.630(3)(b))
- Unlawful Issuance of Checks or Drafts
(RCW 9A.56.060)
- Unlawful Possession of Fictitious
Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of
Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment
Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal
Identification Device (RCW
9A.56.320)
- Unlawful Production of Payment
Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing,
or Placing Deleterious Exotic
Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps
(RCW 9.91.142)

Unlawful Use of Food Stamps (RCW
9.91.144)

Unlawful Use of Net to Take Fish 1
(RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic
Animal Species (RCW 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or
Time 1 (RCW 77.15.550(3)(b))

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 July 1, 2019.

Passed by the House April 23, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 244

[Engrossed House Bill 1465]

PISTOL SALES AND TRANSFERS--CONCEALED PISTOL LICENSE HOLDERS

AN ACT Relating to requirements for pistol sales or transfers; amending RCW 9.41.090; adding a new section to chapter 43.43 RCW; providing an effective date; providing a contingent expiration date; and declaring an emergency.

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

Sec. 1. RCW 9.41.090 and 2019 c 3 s 3 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no dealer may deliver a pistol to the purchaser thereof until:

(a) ~~((The purchaser produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (6) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance;~~

~~(b)))~~ The dealer is notified in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state that the purchaser is

eligible to possess a firearm under RCW 9.41.040, as provided in subsection (3)(b) of this section; or

~~((e))~~ (b) The requirements or time periods in RCW 9.41.092 have been satisfied.

(2) In addition to the other requirements of this chapter, no dealer may deliver a semiautomatic assault rifle to the purchaser thereof until:

(a) The purchaser provides proof that he or she has completed a recognized firearm safety training program within the last five years that, at a minimum, includes instruction on:

(i) Basic firearms safety rules;

(ii) Firearms and children, including secure gun storage and talking to children about gun safety;

(iii) Firearms and suicide prevention;

(iv) Secure gun storage to prevent unauthorized access and use;

(v) Safe handling of firearms; and

(vi) State and federal firearms laws, including prohibited firearms transfers.

The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury the training included the minimum requirements; and

(b) The dealer is notified in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a firearm under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state that the purchaser is eligible to possess a firearm under RCW 9.41.040, as provided in subsection (3)(b) of this section; or

(c) The requirements or time periods in RCW 9.41.092 have been satisfied.

(3)(a) Except as provided in (b) of this subsection, in determining whether the purchaser meets the requirements of RCW 9.41.040, the chief of police or sheriff, or the designee of either, shall check with the ~~((national crime information center, including the))~~ national instant criminal background check system, provided for by the Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.), the Washington state patrol electronic database, the health care authority electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

(b) The state, through the legislature or initiative process, may enact a statewide firearms background check system equivalent to, or more comprehensive than, the check required by (a) of this subsection to determine that a purchaser is eligible to possess a firearm under RCW 9.41.040. Once a state system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms.

(4) In any case under this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony

or misdemeanor, the dealer shall hold the delivery of the pistol or semiautomatic assault rifle until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale, or the state pursuant to subsection (3)(b) of this section, shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol or semiautomatic assault rifle is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a firearm.

(5) In any case where the chief or sheriff of the local jurisdiction, or the state pursuant to subsection (3)(b) of this section, has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a firearm, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a firearm, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a firearm, the local jurisdiction or the state may hold the sale and delivery of the pistol or semiautomatic assault rifle up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court, superior court, or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement or the state and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

(6)(a) At the time of applying for the purchase of a pistol or semiautomatic assault rifle, the purchaser shall sign in triplicate and deliver to the dealer an application containing:

(i) His or her full name, residential address, date and place of birth, race, and gender;

(ii) The date and hour of the application;

(iii) The applicant's driver's license number or state identification card number;

(iv) A description of the pistol or semiautomatic assault rifle including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of a pistol or semiautomatic assault rifle. If the manufacturer's number is not available at the time of applying for the purchase of a pistol or semiautomatic assault rifle, the application may be processed, but delivery of the pistol or semiautomatic assault rifle to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the purchaser resides, or the state pursuant to subsection (3)(b) of this section;

(v) A statement that the purchaser is eligible to purchase and possess a firearm under state and federal law; and

(vi) If purchasing a semiautomatic assault rifle, a statement by the applicant under penalty of perjury that the applicant has completed a recognized firearm

safety training program within the last five years, as required by subsection (2) of this section.

(b) The application shall contain two warnings substantially stated as follows:

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

(ii) CAUTION: The presence of a firearm in the home has been associated with an increased risk of death to self and others, including an increased risk of suicide, death during domestic violence incidents, and unintentional deaths to children and others.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms and firearms safety.

(c) The dealer shall, by the end of the business day, sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsections (1) and (2) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant to subsection (3)(b) of this section. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol or semiautomatic assault rifle to the purchaser following the period of time specified in this chapter unless the dealer is notified of an investigative hold under subsection (5) of this section in writing by the chief of police of the municipality, the sheriff of the county, or the state, whichever is applicable, or of the denial of the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to purchase or possess the firearm under state or federal law.

(d) The chief of police of the municipality or the sheriff of the county, or the state pursuant to subsection (3)(b) of this section, shall retain or destroy applications to purchase a pistol or semiautomatic assault rifle in accordance with the requirements of 18 U.S.C. Sec. 922.

(7)(a) To help offset the administrative costs of implementing this section as it relates to new requirements for semiautomatic assault rifles, the department of licensing may require the dealer to charge each semiautomatic assault rifle purchaser or transferee a fee not to exceed twenty-five dollars, except that the fee may be adjusted at the beginning of each biennium to levels not to exceed the percentage increase in the consumer price index for all urban consumers, CPI-W, or a successor index, for the previous biennium as calculated by the United States department of labor.

(b) The fee under (a) of this subsection shall be no more than is necessary to fund the following:

(i) The state for the cost of meeting its obligations under this section;

(ii) The health care authority, mental health institutions, and other health care facilities for state-mandated costs resulting from the reporting requirements imposed by RCW 9.41.097(1); and

(iii) Local law enforcement agencies for state-mandated local costs resulting from the requirements set forth under RCW 9.41.090 and this section.

(8) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a firearm is guilty of false swearing under RCW 9A.72.040.

(9) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

NEW SECTION. Sec. 2. A new section is added to chapter 43.43 RCW to read as follows:

(1) Section 1 of this act expires June 30, 2022, if the contingency in subsection (2) of this section does not occur by December 31, 2021, as determined by the Washington state patrol.

(2) Section 1 of this act expires six months after the date on which the Washington state patrol determines that a single point of contact firearm background check system, for purposes of the federal Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.), is operational in the state.

(3) If section 1 of this act expires pursuant to subsection (2) of this section, the Washington state patrol must provide written notice of the expiration to 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 Washington state patrol.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

Passed by the House April 23, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 245

[Substitute House Bill 1786]

PROTECTION, NO-CONTACT, AND RESTRAINING ORDERS--FIREARMS AND WEAPONS

AN ACT Relating to improving procedures and strengthening laws relating to protection orders, no-contact orders, and restraining orders; amending RCW 9.41.800, 9.41.040, 7.90.090, 7.90.110, 7.90.140, 7.92.100, 7.92.120, 7.92.150, 7.92.190, 10.14.080, 10.14.100, 10.14.180, 26.50.070, 26.50.090, 26.50.130, 26.09.060, and 26.10.115; and adding a new section to chapter 9.41 RCW.

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

Sec. 1. RCW 9.41.800 and 2014 c 111 s 2 are each amended to read as follows:

(1) Any court when entering an order authorized under chapter 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020, 26.50.060, 26.50.070, or 26.26.590 shall, upon a showing by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or (~~previously committed any offense that makes him or her~~) is ineligible to possess a firearm under the provisions of RCW 9.41.040:

(a) Require that the party ~~((to))~~ immediately surrender ~~((any))~~ all firearms ~~((or))~~ and other dangerous weapons;

(b) Require that the party ~~((to))~~ immediately surrender any concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from accessing, obtaining, or possessing ~~((a))~~ any firearms or other dangerous weapons;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(2) Any court when entering an order authorized under chapter 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, ~~((26.26.130))~~ 26.26B.020, 26.50.060, 26.50.070, or 26.26.590 may, upon a showing by a preponderance of the evidence but not by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or ~~((previously committed any offense that makes him or her))~~ is ineligible to possess a firearm under the provisions of RCW 9.41.040:

(a) Require that the party ~~((to))~~ immediately surrender ~~((any))~~ all firearms ~~((or))~~ and other dangerous weapons;

(b) Require that the party ~~((to))~~ immediately surrender a concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from accessing, obtaining, or possessing ~~((a))~~ any firearms or other dangerous weapons;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(3) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26B, or 26.50 RCW that:

(a) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(b) Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(c)(i) Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; and

(ii) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury, the court shall:

(A) Require that the party ~~((to))~~ immediately surrender ~~((any))~~ all firearms ~~((or))~~ and other dangerous weapons;

(B) Require that the party ~~((to))~~ immediately surrender a concealed pistol license issued under RCW 9.41.070;

(C) Prohibit the party from accessing, obtaining, or possessing ~~((a))~~ any firearms or other dangerous weapons; and

(D) Prohibit the party from obtaining or possessing a concealed pistol license.

(4) The court may order temporary surrender of ~~((a))~~ all firearms ~~((or))~~ and other dangerous weapons, and any concealed pistol license, without notice to the other party if it finds, on the basis of the moving affidavit or other evidence, that

irreparable injury could result if an order is not issued until the time for response has elapsed.

(5) In addition to the provisions of subsections (1), (2), and (4) of this section, the court may enter an order requiring a party to comply with the provisions in subsection (1) of this section if it finds that the possession of a firearm or other dangerous weapon by any party presents a serious and imminent threat to public health or safety, or to the health or safety of any individual.

(6) The requirements of subsections (1), (2), and (5) of this section may be for a period of time less than the duration of the order.

(7) The court may require the party to surrender ~~((any))~~ all firearms ~~((or))~~ and other dangerous weapons in his or her immediate possession or control or subject to his or her immediate possession or control, and any concealed pistol license issued under RCW 9.41.070, to the ~~((sheriff of the county having jurisdiction of the proceeding, the chief of police of the municipality having jurisdiction, or to the restrained or enjoined party's counsel or to any person designated by the court))~~ local law enforcement agency. Law enforcement officers shall use law enforcement databases to assist in locating the respondent in situations where the protected person does not know where the respondent lives or where there is evidence that the respondent is trying to evade service.

(8) If the court enters a protection order, restraining order, or no-contact order that includes an order to surrender firearms, dangerous weapons, and any concealed pistol license under this section, the order must be served by a law enforcement officer.

NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW to read as follows:

(1) Because of the heightened risk of lethality to petitioners when respondents to protection orders become aware of court involvement and continue to have access to firearms, and the frequency of noncompliance with court orders prohibiting possession of firearms, law enforcement and judicial processes must emphasize swift and certain compliance with court orders prohibiting access, possession, and ownership of firearms.

(2) A law enforcement officer serving a protection order, no-contact order, or restraining order that includes an order to surrender all firearms, dangerous weapons, and a concealed pistol license under RCW 9.41.800 shall inform the respondent that the order is effective upon service and the respondent must immediately surrender all firearms and dangerous weapons in his or her custody, control, or possession and any concealed pistol license issued under RCW 9.41.070, and conduct any search permitted by law for such firearms, dangerous weapons, and concealed pistol license. The law enforcement 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. Alternatively, if personal service is not required because the respondent was present at the hearing at which the order was entered, the respondent must immediately surrender all firearms, dangerous weapons, and any concealed pistol license in a safe manner to the control of the local law enforcement agency on the day of the hearing at which the respondent was present.

(3) At the time of surrender, a law enforcement officer taking possession of firearms, dangerous weapons, and any concealed pistol license shall issue a

receipt identifying all firearms, dangerous weapons, and any concealed pistol license that have been surrendered and provide a copy of the receipt to the respondent. The law enforcement agency shall file the original receipt with the court within twenty-four hours after service of the order and retain a copy of the receipt, electronically whenever electronic filing is available.

(4) Upon the sworn statement or testimony of the petitioner or of any law enforcement officer alleging that the respondent has failed to comply with the surrender of firearms or dangerous weapons as required by an order issued under RCW 9.41.800, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms and dangerous weapons in their possession, custody, or control. If probable cause exists, the court shall issue a warrant describing the firearms or dangerous weapons and authorizing a search of the locations where the firearms and dangerous weapons are reasonably believed to be and the seizure of all firearms and dangerous weapons discovered pursuant to such search.

(5) If a person other than the respondent claims title to any firearms or dangerous weapons surrendered pursuant to this section, and the person is determined by the law enforcement agency to be the lawful owner of the firearm or dangerous weapon, the firearm or dangerous weapon shall be returned to the lawful owner, provided that:

(a) The firearm or dangerous weapon is removed from the respondent's access, custody, control, or possession and the lawful owner agrees by written document signed under penalty of perjury to store the firearm or dangerous weapon in a manner such that the respondent does not have access to or control of the firearm or dangerous weapon;

(b) The firearm or dangerous weapon is not otherwise unlawfully possessed by the owner; and

(c) The requirements of RCW 9.41.345 are met.

(6) Courts shall develop procedures to verify timely and complete compliance with orders to surrender weapons under RCW 9.41.800, including compliance review hearings to be held as soon as possible upon receipt from law enforcement of proof of service. A compliance review hearing is not required if the court can otherwise enter findings on the record or enter written findings that the proof of surrender or declaration of nonsurrender attested to by the person subject to the order, along with verification from law enforcement and any other relevant evidence, makes a sufficient showing that the person has timely and completely surrendered all firearms and dangerous weapons in their custody, control, or possession, and any concealed pistol license issued under RCW 9.41.070, to a law enforcement agency. If the court does not have a sufficient record before it on which to make such a finding, the court must set a review hearing to occur as soon as possible at which the respondent must be present and provide testimony to the court under oath verifying compliance with the court's order.

(7) All law enforcement agencies must have policies and procedures to provide for the acceptance, storage, and return of firearms, dangerous weapons, and concealed pistol licenses that a court requires must be surrendered under RCW 9.41.800. A law enforcement agency holding any firearm or concealed pistol license that has been surrendered under RCW 9.41.800 shall comply with

the provisions of RCW 9.41.340 and 9.41.345 before the return of the firearm or concealed pistol license to the owner or individual from whom it was obtained.

(8) The administrative office of the courts shall create a statewide pattern form to assist the courts in ensuring timely and complete compliance in a consistent manner with orders issued under this chapter. The administrative office of the courts shall report annually on the number of orders issued under this chapter by each court, the degree of compliance, and the number of firearms obtained, and may make recommendations regarding additional procedures to enhance compliance and victim safety.

Sec. 3. RCW 9.41.040 and 2018 c 234 s 1 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, 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 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(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, committed on or after June 7, 2018;

(iii) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26B, or 26.50 RCW that:

(A) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(B) Restrains the person from harassing, stalking, or threatening ~~((an intimate partner of))~~ the person protected under the order or child of the ~~((intimate partner))~~ person or protected person, or engaging in other conduct that would place ~~((an intimate partner))~~ the protected person in reasonable fear of bodily injury to the ~~((partner))~~ protected person or child; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the ~~((intimate partner))~~ protected person or child~~(;)~~ and ~~((H))~~ by its terms~~(;)~~ explicitly prohibits the use, attempted use, or threatened

use of physical force against the (~~intimate partner~~) 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, obtaining, or possessing firearms:

(iv) After having previously been involuntarily committed for mental health treatment 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;

(v) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(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) (a)(iii) of this subsection does not apply to a sexual assault protection order under chapter 7.90 RCW if the order has been modified pursuant to RCW 7.90.170 to remove any restrictions on firearm purchase, transfer, or possession.

(c) 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 twenty 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 (4) 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 eighteen 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 twenty-four 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) For purposes of this section, "intimate partner" includes: A spouse, a domestic partner, a former spouse, a former domestic partner, a person with whom the restrained person has a child in common, or a person with whom the restrained person has cohabitated or is cohabitating as part of a dating relationship.))~~

Sec. 4. RCW 7.90.090 and 2006 c 138 s 10 are each amended to read as follows:

(1)(a) If the court finds by a preponderance of the evidence that the petitioner has been a victim of nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent, the court shall issue a sexual assault protection order; provided that the petitioner must also satisfy the requirements of RCW 7.90.110 for ex parte temporary orders or RCW 7.90.120 for final orders.

(b) The petitioner shall not be denied a sexual assault protection order because the petitioner or the respondent is a minor or because the petitioner did not report the assault to law enforcement. The court, when determining whether or not to issue a sexual assault protection order, may not require proof of physical injury on the person of the victim or proof that the petitioner has reported the sexual assault to law enforcement. Modification and extension of prior sexual assault protection orders shall be in accordance with this chapter.

(2) The court may provide relief as follows:

(a) Restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties regardless of whether those third parties know of the order;

(b) Exclude the respondent from the petitioner's residence, workplace, or school, or from the day care or school of a child, if the victim is a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Order any other injunctive relief as necessary or appropriate for the protection of the petitioner.

(3) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(4) In cases where the petitioner and the respondent are under the age of eighteen and attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger or emotional distress to the petitioner, and the expense difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the person restrained in the order not attend the public or approved private elementary, middle, or high school attended by the person under the age of eighteen protected by the order. In the event the court orders a transfer of the restrained person to another school, the parents or legal guardians of the person restrained in the order are responsible for transportation and other costs associated with the change of school by the person restrained in the order. The court shall send notice of the restriction on attending the same school as the person protected by the order to the public or approved private school the person restrained by the order will attend and to the school the person protected by the order attends.

~~((4))~~ (5) Denial of a remedy may not be based, in whole or in part, on evidence that:

(a) The respondent was voluntarily intoxicated;

(b) The petitioner was voluntarily intoxicated; or

(c) The petitioner engaged in limited consensual sexual touching.

~~((5))~~ (6) Monetary damages are not recoverable as a remedy.

~~((6))~~ (7) A knowing violation of a court order issued under this section is punishable under RCW 26.50.110.

Sec. 5. RCW 7.90.110 and 2007 c 212 s 3 are each amended to read as follows:

(1) An ex parte temporary sexual assault protection order shall issue if the petitioner satisfies the requirements of this subsection by a preponderance of the evidence. The petitioner shall establish that:

(a) The petitioner has been a victim of nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent; and

(b) There is good cause to grant the remedy, regardless of the lack of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

(2) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(3) If the respondent appears in court for this hearing for an ex parte temporary order, he or she may elect to file a general appearance and testify under oath. Any resulting order may be an ex parte temporary order, governed by this section.

~~((3))~~ (4) If the court declines to issue an ex parte temporary sexual assault protection order, the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte temporary order shall be filed with the court.

~~((4))~~ (5) A knowing violation of a court order issued under this section is punishable under RCW 26.50.110.

Sec. 6. RCW 7.90.140 and 2013 c 74 s 5 are each amended to read as follows:

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party. If the order includes a requirement under RCW 9.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter electronically forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) If the court previously entered an order allowing service of the notice of hearing and temporary order of protection by publication under RCW 7.90.052 or service by mail under RCW 7.90.053, the court may permit service by publication or service by mail of the order of protection issued under this chapter. Service by publication must comply with the requirements of RCW 7.90.052 and service by mail must comply with the requirements of RCW 7.90.053. The court order must state whether the court permitted service by publication or service by mail.

Sec. 7. RCW 7.92.100 and 2013 c 84 s 10 are each amended to read as follows:

(1)(a) If the court finds by a preponderance of the evidence that the petitioner has been a victim of stalking conduct by the respondent, the court shall issue a stalking protection order.

(b) The petitioner shall not be denied a stalking protection order because the petitioner or the respondent is a minor or because the petitioner did not report the stalking conduct to law enforcement. The court, when determining whether or not to issue a stalking protection order, may not require proof of the respondent's intentions regarding the acts alleged by the petitioner. Modification and extension of prior stalking protection orders shall be in accordance with this chapter.

(2) The court may provide relief as follows:

(a) Restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties regardless of whether those third parties know of the order;

(b) Exclude the respondent from the petitioner's residence, workplace, or school, or from the day care, workplace, or school of the petitioner's minor children;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Prohibit the respondent from keeping the petitioner and/or the petitioner's minor children under surveillance, to include electronic surveillance;

(e) Order any other injunctive relief as necessary or appropriate for the protection of the petitioner, to include a mental health and/or chemical dependency evaluation; and

(f) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees.

(3) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(4) Unless otherwise stated in the order, when a person is petitioning on behalf of a minor child or vulnerable adult, the relief authorized in this section shall apply only for the protection of the victim, and not the petitioner.

~~((4))~~ (5) In cases where the petitioner and the respondent attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger or emotional distress to the petitioner, and the expense difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the person restrained in the order not attend the public or approved private elementary, middle, or high school attended by the person protected by the order. In the event the court orders a transfer of the restrained person to another school, the parents or legal guardians of the person restrained in the order are responsible for transportation and other costs associated with the change of school by the person restrained in the order. The court shall send notice of the restriction on attending the same school as the person protected by the order to the public or approved private school the person restrained by the order will attend and to the school the person protected by the order attends.

Sec. 8. RCW 7.92.120 and 2013 c 84 s 12 are each amended to read as follows:

(1) Where it appears from the petition and any additional evidence that the respondent has engaged in stalking conduct and that irreparable injury could result if an order is not issued immediately without prior notice, the court may grant an ex parte temporary order for protection, pending a full hearing and grant such injunctive relief as it deems proper, including the relief as specified under RCW 7.92.100 (2)(a) through (d) and (4).

(2) Irreparable injury under this section includes, but is not limited to, situations in which the respondent has recently threatened the petitioner with bodily injury or has engaged in acts of stalking conduct against the petitioner.

(3) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(4) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

~~((4))~~ (5) An ex parte temporary stalking protection order shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication or mail. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. Unless the court has permitted service by publication or mail, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

~~((5))~~ (6) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a statewide judicial information system by the clerk of the court within one judicial day after issuance.

~~((6))~~ (7) If the court declines to issue an ex parte temporary stalking protection order, the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte temporary order shall be filed with the court.

~~((7))~~ (8) A knowing violation of a court order issued under this section is punishable under RCW 26.50.110.

Sec. 9. RCW 7.92.150 and 2013 c 84 s 15 are each amended to read as follows:

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6), (7), or (8) of this section. If the respondent is a minor, the respondent's parent or legal custodian shall also be personally served.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party. If the order includes a requirement under RCW 9.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter electronically forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer or private process server files an affidavit stating that the officer or private process server was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer or private process server made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the respondent is avoiding service;

(c) The server has deposited a copy of the petition, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the

respondent's last known address, unless the server states that the server does not know the respondent's address;

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome;

(e) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication; and

(f) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the court of the state of Washington for
the county of

., Petitioner

vs.

No.

., Respondent

The state of Washington to
(respondent):

You are hereby summoned to appear on the . . . day
of, 20 . . ., at . . . a.m./p.m., and respond to the
petition. If you fail to respond, an order of protection will
be issued against you pursuant to the provisions of the
stalking protection order act, chapter 7.92 RCW, for a
minimum of one year from the date you are required to
appear. A temporary order of protection has been issued
against you, restraining you from the following: (Insert a
brief statement of the provisions of the ex parte order.) A
copy of the petition, notice of hearing, and ex parte order
has been filed with the clerk of this court.

.
Petitioner

(8) In circumstances justifying service by publication under subsection (7) of this section, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as

service by publication and that the serving party is unable to afford the cost of service by publication, the court may order that service be made by mail. Such service shall be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first-class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(a) Proof of service under this section shall be consistent with court rules for civil proceedings.

(b) Service under this section may be used in the same manner and shall have the same jurisdictional effect as service by publication for purposes of this chapter. Service shall be deemed complete upon the mailing of two copies as prescribed in this section.

Sec. 10. RCW 7.92.190 and 2013 c 84 s 19 are each amended to read as follows:

(1) Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing stalking protection order.

(2) A respondent's motion to modify or terminate an existing stalking protection order must include a declaration setting forth facts supporting the requested order for termination or modification. The nonmoving parties to the proceeding may file opposing declarations. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the declarations. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent's motion.

(3) The court may not terminate or modify an existing stalking protection order unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that the respondent will not resume acts of stalking conduct against the petitioner or those persons protected by the protection order if the order is terminated or modified. The petitioner bears no burden of proving that he or she has a current reasonable fear of harm by the respondent.

(4) A respondent may file a motion to terminate or modify an order no more than once in every twelve-month period that the order is in effect, starting from the date of the order and continuing through any renewal.

(5) A court may require the respondent to pay the petitioner for costs incurred in responding to a motion to terminate or modify a stalking protection order, including reasonable attorneys' fees.

~~((5))~~ (6) In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the computer-based criminal intelligence information system, or if the order is terminated, remove the order from the computer-based criminal intelligence information system.

Sec. 11. RCW 10.14.080 and 2011 c 307 s 3 are each amended to read as follows:

(1) Upon filing a petition for a civil antiharassment protection order under this chapter, the petitioner may obtain an ex parte temporary antiharassment protection order. An ex parte temporary antiharassment protection order may be granted with or without notice upon the filing of an affidavit which, to the satisfaction of the court, shows reasonable proof of unlawful harassment of the petitioner by the respondent and that great or irreparable harm will result to the petitioner if the temporary antiharassment protection order is not granted. If the court declines to issue an ex parte temporary antiharassment protection order, the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte temporary order shall be filed with the court.

(2) An ex parte temporary antiharassment protection order shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 10.14.085. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as provided in RCW 10.14.070 and 10.14.085, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing. The ex parte order and notice of hearing shall include at a minimum the date and time of the hearing set by the court to determine if the temporary order should be made effective for one year or more, and notice that if the respondent should fail to appear or otherwise not respond, an order for protection will be issued against the respondent pursuant to the provisions of this chapter, for a minimum of one year from the date of the hearing. The notice shall also include a brief statement of the provisions of the ex parte order and notify the respondent that a copy of the ex parte order and notice of hearing has been filed with the clerk of the court.

(3) At the hearing, if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment.

(4) An order issued under this chapter shall be effective for not more than one year unless the court finds that the respondent is likely to resume unlawful harassment of the petitioner when the order expires. If so, the court may enter an order for a fixed time exceeding one year or may enter a permanent antiharassment protection order. The court shall not enter an order that is effective for more than one year if the order restrains the respondent from contacting the respondent's minor children. This limitation is not applicable to civil antiharassment protection orders issued under chapter 26.09, 26.10, or ~~((26.26))~~ 26.26B RCW. If the petitioner seeks relief for a period longer than one year on behalf of the respondent's minor children, the court shall advise the petitioner that the petitioner may apply for renewal of the order as provided in this chapter or if appropriate may seek relief pursuant to chapter 26.09 or 26.10 RCW.

(5) At any time within the three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a petition for renewal. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal, the court

shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 10.14.085, personal service shall be made upon the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by RCW 10.14.085. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in this section. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume harassment of the petitioner when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in subsection (4) of this section.

(6) The court, in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall have broad discretion to grant such relief as the court deems proper, including an order:

(a) Restraining the respondent from making any attempts to contact the petitioner;

(b) Restraining the respondent from making any attempts to keep the petitioner under surveillance; and

(c) Requiring the respondent to stay a stated distance from the petitioner's residence and workplace(~~(; and~~

~~(d) Considering the provisions of RCW 9.41.800)).~~

(7) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

~~(8)~~ (8) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order(~~(;)~~) shall not prohibit the respondent from exercising constitutionally protected free speech. Nothing in this section prohibits the petitioner from utilizing other civil or criminal remedies to restrain conduct or communications not otherwise constitutionally protected.

~~((8))~~ (9) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order(~~(;)~~) shall not prohibit the respondent from the use or enjoyment of real property to which the respondent has a cognizable claim unless that order is issued under chapter 26.09 RCW or under a separate action commenced with a summons and complaint to determine title or possession of real property.

~~((9))~~ (10) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order(~~(;)~~) shall not limit the respondent's right to care, control, or custody of the respondent's minor child, unless that order is issued under chapter 13.32A, 26.09, 26.10, or ~~((26-26))~~ 26.26B RCW.

~~((10))~~ (11) A petitioner may not obtain an ex parte temporary antiharassment protection order against a respondent if the petitioner has previously obtained two such ex parte orders against the same respondent but

has failed to obtain the issuance of a civil antiharassment protection order unless good cause for such failure can be shown.

~~((H))~~ (12) The court order shall specify the date an order issued pursuant to subsections (4) and (5) of this section expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section.

Sec. 12. RCW 10.14.100 and 2002 c 117 s 3 are each amended to read as follows:

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (5) and (7) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party. If the order includes a requirement under RCW 9.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(3) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner.

(4) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(5) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary. The court's order, entered after a hearing, need not be served on a respondent who fails to appear before the court, if material terms of the order have not changed from those contained in the temporary order, and it is shown to the court's satisfaction that the respondent has previously been personally served with the temporary order.

(6) Except in cases where the petitioner has fees waived under RCW 10.14.055 or is granted leave to proceed in forma pauperis, municipal police departments serving documents as required under this chapter may collect the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(7) If the court previously entered an order allowing service by publication of the notice of hearing and temporary order of protection pursuant to RCW 10.14.085, the court may permit service by publication of the order of protection issued under RCW 10.14.080. Service by publication must comply with the requirements of RCW 10.14.085.

Sec. 13. RCW 10.14.180 and 1987 c 280 s 18 are each amended to read as follows:

Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order under this chapter. A respondent may file a motion to terminate or modify an order no more than once in every twelve-month period that the order is in effect, starting from the date of the order and continuing through any renewal. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination

order to the appropriate law enforcement agency specified in the modified order or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system.

Sec. 14. RCW 26.50.070 and 2018 c 22 s 9 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;

(c) Prohibiting any party from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;

(e) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; and

(f) ~~((Considering the provisions of RCW 9.41.800; and~~

~~(g)))~~ Restraining the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.

(2) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(3) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

~~((3))~~ (4) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

~~((4))~~ (5) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte temporary order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the ex parte temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte temporary order along with a copy of the petition and notice of the date set for the hearing.

~~((5))~~ (6) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a statewide judicial information system by the clerk of the court within one judicial day after issuance.

~~((6))~~ (7) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte temporary order ~~((ø))~~ for protection shall be filed with the court.

Sec. 15. RCW 26.50.090 and 1995 c 246 s 10 are each amended to read as follows:

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (6) and (8) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party. If the order includes a requirement under RCW 9.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter electronically forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Municipal police departments serving documents as required under this chapter may collect from respondents ordered to pay fees under RCW 26.50.060 the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(8) If the court previously entered an order allowing service of the notice of hearing and temporary order of protection by publication pursuant to RCW 26.50.085 or by mail pursuant to RCW 26.50.123, the court may permit service by publication or by mail of the order of protection issued under RCW 26.50.060. Service by publication must comply with the requirements of RCW 26.50.085 and service by mail must comply with the requirements of RCW 26.50.123. The court order must state whether the court permitted service by publication or by mail.

Sec. 16. RCW 26.50.130 and 2011 c 137 s 2 are each amended to read as follows:

(1) Upon a motion with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection or may terminate an existing order for protection.

(2) A respondent's motion to modify or terminate an order for protection that is permanent or issued for a fixed period exceeding two years must include a declaration setting forth facts supporting the requested order for termination or modification. The motion and declaration must be served according to subsection ~~((7))~~ (8) of this section. The nonmoving parties to the proceeding may file opposing declarations. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the declarations. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent's motion.

(3)(a) The court may not terminate an order for protection that is permanent or issued for a fixed period exceeding two years upon a motion of the respondent unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that the respondent is not likely to resume acts of domestic violence against the petitioner or those persons protected by the protection order if the order is terminated. In a motion by the respondent for termination of an order for protection that is permanent or issued for a fixed period exceeding two years, the petitioner bears no burden of proving that he or she has a current reasonable fear of imminent harm by the respondent.

(b) For the purposes of this subsection, a court shall determine whether there has been a "substantial change in circumstances" by considering only factors which address whether the respondent is likely to commit future acts of domestic violence against the petitioner or those persons protected by the protection order.

(c) In determining whether there has been a substantial change in circumstances the court may consider the following unweighted factors, and no inference is to be drawn from the order in which the factors are listed:

(i) Whether the respondent has committed or threatened domestic violence, sexual assault, stalking, or other violent acts since the protection order was entered;

(ii) Whether the respondent has violated the terms of the protection order, and the time that has passed since the entry of the order;

(iii) Whether the respondent has exhibited suicidal ideation or attempts since the protection order was entered;

(iv) Whether the respondent has been convicted of criminal activity since the protection order was entered;

(v) Whether the respondent has either acknowledged responsibility for the acts of domestic violence that resulted in entry of the protection order or successfully completed domestic violence perpetrator treatment or counseling since the protection order was entered;

(vi) Whether the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order;

(vii) Whether the petitioner consents to terminating the protection order, provided that consent is given voluntarily and knowingly;

(viii) Whether the respondent or petitioner has relocated to an area more distant from the other party, giving due consideration to the fact that acts of domestic violence may be committed from any distance;

(ix) Other factors relating to a substantial change in circumstances.

(d) In determining whether there has been a substantial change in circumstances, the court may not base its determination solely on: (i) The fact that time has passed without a violation of the order; or (ii) the fact that the respondent or petitioner has relocated to an area more distant from the other party.

(e) Regardless of whether there is a substantial change in circumstances, the court may decline to terminate a protection order if it finds that the acts of domestic violence that resulted in the issuance of the protection order were of such severity that the order should not be terminated.

(4) The court may not modify an order for protection that is permanent or issued for a fixed period exceeding two years upon a motion of the respondent unless the respondent proves by a preponderance of the evidence that the requested modification is warranted. If the requested modification would reduce the duration of the protection order or would eliminate provisions in the protection order restraining the respondent from harassing, stalking, threatening, or committing other acts of domestic violence against the petitioner or the petitioner's children or family or household members or other persons protected by the order, the court shall consider the factors in subsection (3)(c) of this section in determining whether the protection order should be modified. Upon a motion by the respondent for modification of an order for protection that is permanent or issued for a fixed period exceeding two years, the petitioner bears no burden of proving that he or she has a current reasonable fear of imminent harm by the respondent.

(5) A respondent may file a motion to terminate or modify an order no more than once in every twelve-month period that the order is in effect, starting from the date of the order and continuing through any renewal.

(6) Upon a motion by a petitioner, the court may modify or terminate an existing order for protection. The court shall hear the motion without an adequate cause hearing.

~~((6))~~ (7) A court may require the respondent to pay court costs and service fees, as established by the county or municipality incurring the expense and to pay the petitioner for costs incurred in responding to a motion to terminate or modify a protection order, including reasonable attorneys' fees.

~~((7))~~ (8) Except as provided in RCW 26.50.085 and 26.50.123, a motion to modify or terminate an order for protection must be personally served on the nonmoving party not less than five court days prior to the hearing.

(a) If a moving party seeks to modify or terminate an order for protection that is permanent or issued for a fixed period exceeding two years, the sheriff of the county or the peace officers of the municipality in which the nonmoving party resides or a licensed process server shall serve the nonmoving party personally except when a petitioner is the moving party and elects to have the nonmoving party served by a private party. If the order includes a requirement under RCW 9.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(b) If the sheriff, municipal peace officer, or licensed process server cannot complete service upon the nonmoving party within ten days, the sheriff, municipal peace officer, or licensed process server shall notify the moving party.

The moving party shall provide information sufficient to permit notification by the sheriff, municipal peace officer, or licensed process server.

(c) If timely personal service cannot be made, the court shall set a new hearing date and shall either require an additional attempt at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123.

(d) The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or by mail unless the moving party requests additional time to attempt personal service.

(e) If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order permitting service by publication or by mail.

~~((8))~~ (9) Municipal police departments serving documents as required under this chapter may recover from a respondent ordered to pay fees under subsection ~~((6))~~ (7) of this section the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(10) ~~((9))~~ In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system.

Sec. 17. RCW 26.09.060 and 2008 c 6 s 1009 are each amended to read as follows:

(1) In a proceeding for:

(a) Dissolution of marriage or domestic partnership, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage or the domestic partnership by a court which lacked personal jurisdiction over the absent spouse or absent domestic partner; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him or her to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child;

(c) Going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child upon a showing of the necessity therefor;

(d) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(e) Removing a child from the jurisdiction of the court.

(3) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(5) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances. The court may in its discretion waive the filing of the bond or the posting of security.

(7) Restraining orders issued under this section restraining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(8) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter 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 county in the state.

(9) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection (11) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

(11) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry.

Sec. 18. RCW 26.10.115 and 2000 c 119 s 9 are each amended to read as follows:

(1) In a proceeding under this chapter either party may file a motion for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amount requested.

(2) In a proceeding under this chapter either party may file a motion for a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Molesting or disturbing the peace of the other party or of any child;

(b) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(3) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(5) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

(7) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(8) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter 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 county in the state.

(9) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the motion is dismissed;

(d) May be entered in a proceeding for the modification of an existing order.

(11) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the

court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

Passed by the House April 23, 2019.

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CHAPTER 246

[Engrossed Substitute Senate Bill 5027]

EXTREME RISK PROTECTION ORDERS--VARIOUS PROVISIONS

AN ACT Relating to extreme risk protection orders; amending RCW 7.94.010, 7.94.030, 7.94.040, 7.94.060, and 7.94.150; and reenacting and amending RCW 10.31.100.

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

Sec. 1. RCW 7.94.010 and 2017 c 3 s 1 are each amended to read as follows:

(1) Chapter 3, Laws of 2017 is designed to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms by allowing family, household members, and police to obtain a court order when there is demonstrated evidence that the person poses a significant danger, including danger as a result of ~~((a dangerous mental health crisis))~~ threatening or violent behavior.

(2) Every year, over one hundred thousand people are victims of gunshot wounds and more than thirty thousand of those victims lose their lives. Over the last five years for which data is available, one hundred sixty-four thousand eight hundred twenty-one people in America were killed with firearms—an average of ninety-one deaths each day.

(3) Studies show that individuals who engage in certain dangerous behaviors are significantly more likely to commit violence toward themselves or others in the near future. These behaviors, which can include other acts or threats of violence, self-harm, or the abuse of drugs or alcohol, are warning signs that the person may soon commit an act of violence.

(4) Individuals who pose a danger to themselves or others often exhibit signs that alert family, household members, or law enforcement to the threat. Many mass shooters displayed warning signs prior to their killings, but federal and state laws provided no clear legal process to suspend the shooters' access to guns, even temporarily.

(5) In enacting ~~((this initiative [chapter 3, Laws of 2017]))~~ chapter 3, Laws of 2017, it is the purpose and intent of the people to reduce gun deaths and injuries, while respecting constitutional rights, by providing a court procedure for family, household members, and law enforcement to obtain an order temporarily restricting a person's access to firearms. Court orders are intended to be limited to situations in which the person poses a significant danger of harming themselves or others by possessing a firearm and include standards and safeguards to protect the rights of respondents and due process of law.

Sec. 2. RCW 7.94.030 and 2017 c 3 s 4 are each amended to read as follows:

There shall exist an action known as a petition for an extreme risk protection order.

(1) A petition for an extreme risk protection order may be filed by (a) a family or household member of the respondent or (b) a law enforcement officer or agency.

(2) A petition for an extreme risk protection order may be brought against a respondent under the age of eighteen years. No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter if such respondent is sixteen years of age or older. If a guardian ad litem is appointed for the petitioner or respondent, the petitioner must not be required to pay any fee associated with such appointment.

(3) An action under this chapter must be filed in the county where the petitioner resides or the county where the respondent resides.

~~((3))~~ (4) A petition must:

(a) Allege that the respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, accessing, or receiving a firearm, and be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the respondent;

(b) Identify the number, types, and locations of any firearms the petitioner believes to be in the respondent's current ownership, possession, custody, access, or control;

(c) Identify whether there is a known existing protection order governing the respondent, under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW or under any other applicable statute; and

(d) Identify whether there is a pending lawsuit, complaint, petition, or other action between the parties to the petition under the laws of Washington.

~~((4))~~ (5) The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A petition for an extreme risk protection order may be granted whether or not there is a pending action between the parties. Relief under this chapter must not be denied or delayed on the grounds that relief is available in another action.

~~((5))~~ (6) If the petitioner is a law enforcement officer or agency, the petitioner shall make a good faith effort to provide notice to a family or household member of the respondent and to any known third party who may be at risk of violence. The notice must state that the petitioner intends to petition the court for an extreme risk protection order or has already done so, and include referrals to appropriate resources, including ~~((mental))~~ behavioral health, domestic violence, and counseling resources. The petitioner must attest in the petition to having provided such notice, or attest to the steps that will be taken to provide such notice.

~~((6))~~ (7) If the petition states that disclosure of the petitioner's address would risk harm to the petitioner or any member of the petitioner's family or household, the petitioner's address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner must designate an alternative address at which the respondent may

serve notice of any motions. If the petitioner is a law enforcement officer or agency, the address of record must be that of the law enforcement agency.

~~((7))~~ (8) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 7.94.150. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

~~((8))~~ (9) No fees for filing or service of process may be charged by a court or any public agency to petitioners seeking relief under this chapter. Petitioners shall be provided the necessary number of certified copies, forms, and instructional brochures free of charge.

~~((9))~~ (10) A person is not required to post a bond to obtain relief in any proceeding under this section.

~~((10))~~ (11) The superior courts of the state of Washington have jurisdiction over proceedings under this chapter. The juvenile court may hear a proceeding under this chapter if the respondent is under the age of eighteen years. Additionally, district and municipal courts have limited jurisdiction over issuance and enforcement of ex parte extreme risk protection orders issued under RCW 7.94.050. The district or municipal court shall set the full hearing provided for in RCW 7.94.040 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court has concurrent jurisdiction with the superior court to extend the ex parte extreme risk protection order.

(12)(a) Any person restrained by an extreme risk protection order against a respondent under the age of eighteen may petition the court to have the court records sealed from public view at the time of issuance of the full order, at any time during the life of the order, or at any time after its expiration.

(b) The court shall seal the court records from public view if there are no other active protection orders against the restrained party, no pending violations of the order, and evidence of full compliance with the relinquishment of firearms as ordered by the extreme risk protection order.

(c) Nothing in this subsection changes the requirement for the order to be entered into and maintained in computer-based systems as required in RCW 7.94.110.

(13) The court shall give law enforcement priority at any extreme risk protection order calendar because of the importance of immediate temporary removal of firearms in situations of extreme risk and the goal of minimizing the time law enforcement must otherwise wait for a particular case to be called, which can hinder their other patrol and supervisory duties. In the alternative, the court may allow a law enforcement petitioner to participate telephonically, or allow another representative from that law enforcement agency or the prosecutor's office to present the information to the court if personal presence of the petitioning officer is not required for testimonial purposes.

(14) Recognizing that an extreme risk protection order may need to be issued outside of normal business hours, courts shall allow law enforcement petitioners to petition after-hours for an ex parte extreme risk protection order using an on-call, after-hours judge, as is done for approval of after-hours search warrants.

Sec. 3. RCW 7.94.040 and 2017 c 3 s 5 are each amended to read as follows:

(1) Upon receipt of the petition, the court shall order a hearing to be held not later than fourteen days from the date of the order and issue a notice of hearing to the respondent for the same.

(a) The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from potential harm. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing.

(b) The court clerk shall cause a copy of the notice of hearing and petition to be forwarded on or before the next judicial day to the appropriate law enforcement agency for service upon the respondent.

(c) Personal service of the notice of hearing and petition shall be made upon the respondent by a law enforcement officer not less than five court days prior to the hearing. Service issued under this section takes precedence over the service of other documents, unless the other documents are of a similar emergency nature. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication or mail as provided in RCW 7.94.070. The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or mail after two attempts at obtaining personal service unless the petitioner requests additional time to attempt personal service. If the court issues an order permitting service by publication or mail, the court shall set the hearing date not later than twenty-four days from the date the order issues.

(d) The court may, as provided in RCW 7.94.050, issue an ex parte extreme risk protection order pending the hearing ordered under this subsection (1). Such ex parte order must be served concurrently with the notice of hearing and petition.

(2) Upon hearing the matter, if the court finds by a preponderance of the evidence that the respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm, the court shall issue an extreme risk protection order for a period of one year.

(3) In determining whether grounds for an extreme risk protection order exist, the court may consider any relevant evidence including, but not limited to, any of the following:

(a) A recent act or threat of violence by the respondent against self or others, whether or not such violence or threat of violence involves a firearm;

(b) A pattern of acts or threats of violence by the respondent within the past twelve months including, but not limited to, acts or threats of violence by the respondent against self or others;

(c) Any ~~((dangerous mental health issues of the respondent))~~ behaviors that present an imminent threat of harm to self or others;

(d) A violation by the respondent of a protection order or a no-contact order issued under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW;

(e) A previous or existing extreme risk protection order issued against the respondent;

(f) A violation of a previous or existing extreme risk protection order issued against the respondent;

(g) A conviction of the respondent for a crime that constitutes domestic violence as defined in RCW 10.99.020;

(h) A conviction of the respondent under RCW 9A.36.080;

(i) The respondent's ownership, access to, or intent to possess firearms;

~~((+))~~ (j) The unlawful or reckless use, display, or brandishing of a firearm by the respondent;

~~((+))~~ (k) The history of use, attempted use, or threatened use of physical force by the respondent against another person, or the respondent's history of stalking another person;

~~((+))~~ (l) Any prior arrest of the respondent for a felony offense or violent crime;

~~((+))~~ (m) Corroborated evidence of the abuse of controlled substances or alcohol by the respondent; and

~~((+))~~ (n) Evidence of recent acquisition of firearms by the respondent.

(4) The court may:

(a) Examine under oath the petitioner, the respondent, and any witnesses they may produce, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent, and any witnesses they may produce; and

(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.

(5) In a hearing under this chapter, the rules of evidence apply to the same extent as in a domestic violence protection order proceeding under chapter 26.50 RCW.

(6) During the hearing, the court shall consider whether a ~~((mental))~~ behavioral health evaluation ~~((or chemical dependency evaluation))~~ is appropriate, and may order such evaluation if appropriate.

(7) An extreme risk protection order must include:

(a) A statement of the grounds supporting the issuance of the order;

(b) The date and time the order was issued;

(c) The date and time the order expires;

(d) Whether a ~~((mental))~~ behavioral health evaluation ~~((or chemical dependency evaluation))~~ of the respondent is required;

(e) The address of the court in which any responsive pleading should be filed;

(f) A description of the requirements for relinquishment of firearms under RCW 7.94.090; and

(g) The following statement: "To the subject of this protection order: This order will last until the date and time noted above. If you have not done so already, you must surrender to the (insert name of local law enforcement agency) all firearms in your custody, control, or possession and any concealed pistol license issued to you under RCW 9.41.070 immediately. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a firearm while this order is in effect. You have the right to request one hearing to terminate this order every twelve-month period that this order is in effect, starting from the date of this order and continuing through any renewals. You may seek the advice of an attorney as to any matter connected with this order."

(8) When the court issues an extreme risk protection order, the court shall inform the respondent that he or she is entitled to request termination of the order in the manner prescribed by RCW 7.94.080. The court shall provide the respondent with a form to request a termination hearing.

(9) If the court declines to issue an extreme risk protection order, the court shall state the particular reasons for the court's denial.

Sec. 4. RCW 7.94.060 and 2017 c 3 s 7 are each amended to read as follows:

(1) An extreme risk protection order issued under RCW 7.94.040 must be personally served upon the respondent, except as otherwise provided in this chapter.

(2) The law enforcement agency with jurisdiction in the area in which the respondent resides shall serve the respondent personally, unless the petitioner elects to have the respondent served by a private party.

(3) If service by a law enforcement agency is to be used, the clerk of the court shall cause a copy of the order issued under this chapter to be forwarded on or before the next judicial day to the law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.

(4) If the law enforcement agency cannot complete service upon the respondent within ten days, the law enforcement agency shall notify the petitioner. The petitioner shall provide information sufficient to permit such notification.

(5) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(6) If the court previously entered an order allowing service of the notice of hearing and petition, or an ex parte extreme risk protection order, by publication or mail under RCW 7.94.070, or if the court finds there are now grounds to allow such alternate service, the court may permit service by publication or mail of the extreme risk protection order issued under this chapter as provided in RCW 7.94.070. The court order must state whether the court permitted service by publication or service by mail.

(7)(a) When an extreme risk protection order is issued against a minor under the age of eighteen, a copy of the order must be served on the parent or guardian of the minor at any address where the minor resides, or the department of children, youth, and families in the case where the minor is the subject of a dependency or court approved out-of-home placement.

(b) The court shall provide written notice of the legal obligation to safely secure any firearm on the premises and the potential for criminal prosecution if a prohibited person were to obtain access to the firearm as provided in RCW 9.41.360, which shall be served by law enforcement on the parent or guardian of the minor at any address where the minor resides, or the department of children, youth, and families in the case where the minor is the subject of a dependency or court approved out-of-home placement. Notice may be provided at the time the parent or guardian of the respondent appears in court or may be served along with a copy of the order.

(8) Returns of service under this chapter must be made in accordance with the applicable court rules.

Sec. 5. RCW 7.94.150 and 2017 c 3 s 16 are each amended to read as follows:

(1) The administrative office of the courts shall develop and prepare instructions and informational brochures, standard petitions and extreme risk protection order forms, and a court staff handbook on the extreme risk protection order process. The standard petition and order forms must be used after June 1, 2017, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including representatives of gun violence prevention groups, judges, and law enforcement personnel. Materials must be based on best practices and available electronically online to the public.

(a) The instructions must be designed to assist petitioners in completing the petition, and must include a sample of a standard petition and order for protection forms.

(b) The instructions and standard petition must include a means for the petitioner to identify, with only lay knowledge, the firearms the respondent may own, (~~((possesses [possess]))~~) possess, receive, or have in his or her custody or control. The instructions must provide pictures of types of firearms that the petitioner may choose from to identify the relevant firearms, or an equivalent means to allow petitioners to identify firearms without requiring specific or technical knowledge regarding the firearms.

(c) The informational brochure must describe the use of and the process for obtaining, modifying, and terminating an extreme risk protection order under this chapter, and provide relevant forms.

(d) The extreme risk protection order form must include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You have the sole responsibility to avoid or refrain from violating this order's provisions. Only the court can change the order and only upon written application."

(e) The court staff handbook must allow for the addition of a community resource list by the court clerk.

(2) All court clerks may create a community resource list of crisis intervention, (~~((mental))~~) behavioral health, (~~((substance abuse;))~~) interpreter, counseling, and other relevant resources serving the county in which the court is located. The court may make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts. Distribution of all documents shall, at a minimum, be in an electronic format or formats accessible to all courts and court clerks in the state.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrative office of the courts shall determine the significant non-English-speaking or limited-English-speaking populations in the state. The

administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by December 1, 2017.

(6) The administrative office of the courts shall update the instructions, brochures, standard petition and extreme risk protection order forms, and court staff handbook as necessary, including when changes in the law make an update necessary.

(7) Consistent with the provisions of this section, the administrative office of the courts shall develop and prepare:

(a) A standard petition and order form for an extreme risk protection order sought against a respondent under eighteen years of age, titled "Extreme Risk Protection Order - Respondent Under 18 Years":

(b) Pattern forms to assist in streamlining the process for those persons who are eligible to seal records relating to an order under (a) of this subsection, including:

(i) A petition and declaration the respondent can complete to ensure that requirements for public sealing have been met; and

(ii) An order sealing the court records relating to that order; and

(c) An informational brochure to be served on any respondent who is subject to a temporary or full order under (a) of this subsection.

Sec. 6. RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of

an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; ~~((e))~~

(b) An extreme risk protection order has been issued against the person under RCW 7.94.040, the person has knowledge of the order, and the person has violated the terms of the order prohibiting the person from having in his or her custody or control, purchasing, possessing, accessing, or receiving a firearm or concealed pistol license;

(c) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

~~((e))~~ (d) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160~~((4))~~ (5) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital.

Passed by the Senate April 18, 2019.

Passed by the House April 4, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 247

[Substitute Senate Bill 5181]

INVOLUNTARY TREATMENT ACT--FIREARMS

AN ACT Relating to certain procedures upon initial detention under the involuntary treatment act; amending RCW 9.41.047; adding a new section to chapter 71.05 RCW; 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.** A new section is added to chapter 71.05 RCW to read as follows:

(1) A person who under RCW 71.05.150 or 71.05.153 has been detained at a facility for seventy-two-hour evaluation and treatment on the grounds that the person presents a likelihood of serious harm, but who has not been subsequently committed for involuntary treatment under RCW 71.05.240, may not have in his or her possession or control any firearm for a period of six months after the date that the person is detained.

(2) Before the discharge of a person who has been initially detained under RCW 71.05.150 or 71.05.153 on the grounds that the person presents a likelihood of serious harm, but has not been subsequently committed for involuntary treatment under RCW 71.05.240, the designated crisis responder shall inform the person orally and in writing that:

(a) He or she is prohibited from possessing or controlling any firearm for a period of six months;

(b) He or she must immediately surrender, for the six-month period, any concealed pistol license and any firearms that the person possesses or controls to the sheriff of the county or the chief of police of the municipality in which the person is domiciled;

(c) After the six-month suspension, the person's right to control or possess any firearm or concealed pistol license shall be automatically restored, absent further restrictions imposed by other law; and

(d) Upon discharge, the person may petition the superior court to have his or her right to possess a firearm restored before the six-month suspension period has elapsed by following the procedures provided in RCW 9.41.047(3).

(3)(a) A law enforcement agency holding any firearm that has been surrendered pursuant to this section shall, upon the request of the person from whom it was obtained, return the firearm at the expiration of the six-month suspension period, or prior to the expiration of the six-month period if the person's right to possess firearms has been restored by the court under RCW 9.41.047. The law enforcement agency must comply with the provisions of RCW 9.41.345 when returning a firearm pursuant to this section.

(b) Any firearm surrendered pursuant to this section that remains unclaimed by the lawful owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of firearms in police custody.

NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW to read as follows:

(1) When a designated crisis responder files a petition for initial detention under RCW 71.05.150 or 71.05.153 on the grounds that the person presents a likelihood of serious harm, the petition shall include a copy of the person's driver's license or identicard or comparable information. If the person is not subsequently committed for involuntary treatment under RCW 71.05.240, the court shall forward within three business days of the probable cause hearing a copy of the person's driver's license or identicard, or comparable information, along with the date of release from the facility, to the department of licensing and to the state patrol, who shall forward the information 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). Upon expiration of the six-month period during which the person's right to possess a firearm is suspended as provided in section 1 of this act, the Washington state patrol shall forward to the national instant criminal background check system index, denied persons file, notice that the person's right to possess a firearm has been restored.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the detained person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority, which, upon receipt of such notification, shall immediately suspend the license for a period of six months from the date of the person's release from the facility.

(3) A person who is prohibited from possessing a firearm by reason of having been detained under RCW 71.05.150 or 71.05.153 may, upon discharge, petition the superior court to have his or her right to possess a firearm restored before the six-month suspension period has elapsed by following the procedures provided in RCW 9.41.047(3).

Sec. 3. RCW 9.41.047 and 2018 c 201 s 6001 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, the convicting or committing court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a 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.

(b) The convicting or committing court shall forward within three judicial days after conviction or entry of the commitment order a copy of the person's driver's license or identicard, or comparable information, along with the date of conviction or commitment, 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, the committing court also shall forward, within three judicial days after entry of the commitment order, a copy of the person's driver's license, or comparable information, along with the date of commitment, 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). 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 has a concealed pistol license. If the person does have 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 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, may, upon discharge, petition the superior court to have his or her right to possess a firearm restored.

(b) The petition must be brought in the superior court that ordered the involuntary commitment 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 if the petitioner proves by a preponderance of the evidence that:

(i) The petitioner is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The petitioner has successfully managed the condition related to the commitment or detention;

(iii) The petitioner no longer presents a substantial danger to himself or herself, or the public; and

(iv) The symptoms related to the commitment or detention 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 has engaged in violence and that it is more likely

than not that the person will engage in violence after his or her right to possess a firearm is restored, the person shall bear the burden of proving by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

(e) If the petitioner 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 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, 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 section 1 of this act, 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).

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 19, 2019.

Passed by the House April 10, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 248

[Senate Bill 5205]

PERSONS INCOMPETENT TO STAND TRIAL--FIREARM POSSESSION

AN ACT Relating to provisions governing firearms possession by persons who have been found incompetent to stand trial and who have a history of one or more violent acts; amending RCW 10.77.088, 9.41.040, and 9.41.047; and prescribing penalties.

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

Sec. 1. RCW 10.77.088 and 2016 sp.s. c 29 s 411 are each amended to read as follows:

(1)(a) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:

(i) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment;

(ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or

under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment. The placement under (a)(i) and (ii) of this subsection shall not exceed fourteen days in addition to any unused time of the evaluation under RCW 10.77.060. The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060 shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility;

(iii) May alternatively order that the defendant be placed on conditional release for up to ninety days for mental health treatment and restoration of competency; or

(iv) May order any combination of this subsection.

(b) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in (c) of this subsection.

(c)(i) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

(ii) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period.

(2) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092(+) and found by the court to be not competent, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

(3) If at any time the court dismisses charges under subsection (1) or (2) of this section, the court shall make a finding as to whether the defendant has a history of one or more violent acts. If the court so finds, the defendant is barred from the possession of firearms until a court restores his or her right to possess a firearm under RCW 9.41.047. The court shall state to the defendant and provide written notice that the defendant is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

Sec. 2. RCW 9.41.040 and 2018 c 234 s 1 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, 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 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(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, committed on or after June 7, 2018;

(iii) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26B, or 26.50 RCW that:

(A) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(B) Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; and

(II) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury;

(iv) After having previously been involuntarily committed for mental health treatment 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;

(v) 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;

(vi) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

~~((vii))~~ (vii) 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) (a)(iii) of this subsection does not apply to a sexual assault protection order under chapter 7.90 RCW if the order has been modified pursuant to RCW 7.90.170 to remove any restrictions on firearm purchase, transfer, or possession.

(c) 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 twenty 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 (4) 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 eighteen 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 twenty-four 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) For purposes of this section, "intimate partner" includes: A spouse, a domestic partner, a former spouse, a former domestic partner, a person with whom the restrained person has a child in common, or a person with whom the restrained person has cohabitated or is cohabitating as part of a dating relationship.

Sec. 3. RCW 9.41.047 and 2018 c 201 s 6001 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, 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 any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a 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.

(b) The (~~(convicting or committing)~~) court shall forward within three judicial days after conviction (~~(or)~~), entry of the commitment order, or dismissal of charges, a copy of the person's driver's license or identicaid, or comparable information, 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, 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 (~~(committing)~~) 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). 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 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 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 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.

(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) of this subsection, the court shall restore the petitioner's right to possess a firearm if the petitioner proves by a preponderance of the evidence that:

(i) The petitioner is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The petitioner has successfully managed the condition related to the commitment or incompetency;

(iii) The petitioner no longer presents a substantial danger to himself or herself, or the public; and

(iv) The symptoms related to the commitment 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 has engaged in violence and that it is more likely than not that the person will engage in violence after his or her right to possess a firearm is restored, the person shall bear the burden of proving by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

(e) 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, the health care authority, and the national instant criminal background check system index, denied persons file.

(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).

Passed by the Senate April 18, 2019.

Passed by the House April 10, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 249

[Senate Bill 5508]

CONCEALED PISTOL LICENSE BACKGROUND CHECKS

AN ACT Relating to background checks for concealed pistol licenses; reenacting and amending RCW 9.41.070; and declaring an emergency.

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

Sec. 1. RCW 9.41.070 and 2018 c 226 s 2 and 2018 c 201 s 6002 are each reenacted and amended to read as follows:

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

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

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

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

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

(d) He or she is subject to a court order or injunction regarding firearms pursuant to chapter~~(s)~~ 7.90, 7.92, or 7.94 RCW, or RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, ~~((26.26.130))~~ 26.26B.020, 26.50.060, 26.50.070, or 26.26.590;

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

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

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

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

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

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

(c) (a) and (b) of this subsection ((applies)) apply whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(d) A background check for an original license must be conducted through the Washington state patrol criminal identification section and shall include a national check from the federal bureau of investigation through the submission of fingerprints. The results will be returned to the issuing authority. The applicant may request and receive a copy of the results of the background check from the issuing authority. If the applicant seeks to amend or correct their record, the applicant must contact the Washington state patrol for a Washington state record or the federal bureau of investigation for records from other jurisdictions.

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

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

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

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

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

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

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

A photograph of the applicant may be required as part of the application and printed on the face of the license.

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

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

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

The fee shall be distributed as follows:

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

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

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

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

(e) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.540.

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

The renewal fee shall be distributed as follows:

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

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

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

(d) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.540.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 2. 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 22, 2019.

Passed by the House April 4, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 250

[House Bill 1016]

HOSPITALS--AVAILABILITY OF SEXUAL ASSAULT EVIDENCE KIT COLLECTION--PLAN AND NOTICES

AN ACT Relating to hospital notification of availability of sexual assault evidence kit collection; and adding a new section to chapter 70.41 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.41 RCW to read as follows:

(1) By July 1, 2020, any hospital that does not provide sexual assault evidence kit collection, or does not have appropriate providers available to provide sexual assault evidence kit collection at all times, shall develop a plan, in consultation with the local community sexual assault agency, to assist individuals with obtaining sexual assault evidence kit collection at a facility that provides such collection.

(2) Beginning July 1, 2020:

(a) If a hospital does not perform sexual assault evidence kit collection or does not have appropriate providers available, the hospital shall, within two hours of a request, provide notice to every individual who presents in the emergency department of the hospital and requests a sexual assault evidence kit collection that the hospital does not perform such collection or does not have appropriate providers available; and

(b) Pursuant to the plan required in subsection (1) of this section, if the hospital does not perform sexual assault evidence kit collection or does not have appropriate providers available, hospital staff must coordinate care with the local community sexual assault agency and assist the patient in finding a facility with an appropriate provider available.

(3) A hospital must notify individuals upon arrival who present in the emergency department of the hospital and request a sexual assault evidence kit collection that they may file a complaint with the department if the hospital fails to comply with subsection (2)(a) of this section.

Passed by the House April 24, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 251

[Second Substitute House Bill 1048]

SMALL CLAIMS COURT--RECOVERY OF JUDGMENTS

AN ACT Relating to modifying the process for prevailing parties to recover judgments in small claims court; amending RCW 12.40.020, 12.40.030, 12.40.040, 12.40.050, 12.40.105, 12.40.120, 4.56.200, and 43.79.505; adding a new section to chapter 12.40 RCW; and repealing RCW 12.40.110.

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

Sec. 1. RCW 12.40.020 and 2011 1st sp.s. c 44 s 2 are each amended to read as follows:

~~((4))~~ A small claims action shall be commenced by the plaintiff filing a claim, in the form prescribed by RCW 12.40.050, in the small claims department. A filing fee of ~~((fourteen))~~ thirty-five dollars plus any surcharge authorized by RCW 7.75.035 shall be paid when the claim is filed. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of ~~((fourteen))~~ thirty-five dollars plus any surcharge authorized by RCW 7.75.035. Fifty cents of every filing fee shall be deposited into the judicial stabilization trust account created in RCW 43.79.505 and used to fund indigent defense through the office of public defense. Fifty cents of every filing fee shall be deposited into the crime victims' compensation account created in RCW 7.68.045 and used to assist crime victims.

~~((2) Until July 1, 2013, in addition to the fees required by this section, an additional surcharge of ten dollars shall be charged on the filing fees required by this section, of which seventy-five percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.)~~

Sec. 2. RCW 12.40.030 and 1997 c 352 s 1 are each amended to read as follows:

Upon filing of a claim, the court shall set a time for hearing on the matter. The court shall issue a notice of the claim which shall be served upon the defendant to notify the defendant of the hearing date. A trial need not be held ~~((on this))~~ at the first ((appearance)) hearing, if dispute resolution services are offered instead of trial, or local practice rules provide ~~((that trials will be held on different days))~~ for a pretrial hearing.

Sec. 3. RCW 12.40.040 and 1997 c 352 s 2 are each amended to read as follows:

The notice of claim ~~((can))~~ may be served either as provided for the service of summons or complaint and notice in civil actions as described in RCW 4.28.080 or by registered or certified mail if a return receipt with the signature of the party being served is filed with the court. No other legal document or process is to be served with the notice of claim. Information from the court regarding the small claims department, local small claims procedure, dispute resolution services, or other matters related to litigation in the small claims department may be included with the notice of claim when served.

The notice of claim shall be served promptly after filing the claim. Service must be complete at least ten calendar days prior to the first hearing.

The person serving the notice of claim shall be entitled to receive from the plaintiff, besides mileage, the fee specified in RCW 36.18.040 for such service; which sum, together with the filing fee set forth in RCW 12.40.020, shall be added to any judgment given for plaintiff.

Sec. 4. RCW 12.40.050 and 1984 c 258 s 62 are each amended to read as follows:

A claim filed in the small claims department shall contain: (1) The name and address of the plaintiff; (2) a sworn statement, in brief and concise form, of the nature and amount of the claim and when the claim accrued; and (3) the name and residence of the defendant, if known to the plaintiff, for the purpose of serving the notice of claim on the defendant.

Sec. 5. RCW 12.40.105 and 2004 c 70 s 1 are each amended to read as follows:

((If the losing party fails to pay the judgment within thirty days or within the period otherwise ordered by the court, the judgment shall be increased by: (1) An amount sufficient to cover costs of certification of the judgment under RCW 12.40.110; (2) the amount specified in RCW 36.18.012(2))) (1) Upon the judge's entry of judgment in a small claims action, the judgment is certified as a district court civil judgment and shall be increased by: (a) The amount specified in RCW 36.18.012(2); (b) any post judgment interest provided for in RCW 4.56.110 and 19.52.020; and ~~((3))~~ (c) any other costs incurred by the prevailing party to enforce the judgment, including but not limited to reasonable attorneys' fees, without regard to the jurisdictional limits on the small claims department.

(2) The clerk of the small claims department shall enter the civil judgment on the judgment docket of the district court; and, as in other judgments of district courts, once the judgment is entered on the district court's docket garnishment, execution, and other process on execution provided by law may issue thereon.

(3) A certified copy of the district court judgment shall be provided to the prevailing party for no additional fee.

(4) The prevailing party may file a transcript of the district court civil judgment or a certified copy of the district court judgment with superior courts for entry in the superior courts' lien dockets with like effect as in other cases.

Sec. 6. RCW 12.40.120 and 1997 c 352 s 4 are each amended to read as follows:

No appeal shall be permitted from a judgment of the small claims department of the district court where the amount claimed was less than two hundred fifty dollars. No appeal shall be permitted by a party who requested the exercise of jurisdiction by the small claims department where the amount claimed by that party was less than one thousand dollars. A party in default may seek to have the default judgment set aside according to the civil court rules applicable to setting aside judgments in district court.

NEW SECTION. Sec. 7. A new section is added to chapter 12.40 RCW to read as follows:

If the prevailing party receives payment of the judgment, the prevailing party shall file a satisfaction of such judgment with all courts in which the judgment was filed. If the prevailing party fails to file proof of satisfaction of the judgment, the party paying the judgment may file such notice with all courts in which the judgment was filed.

Sec. 8. RCW 4.56.200 and 2012 c 133 s 1 are each amended to read as follows:

The lien of judgments upon the real estate of the judgment debtor shall commence as follows:

(1) Judgments of the district court of the United States rendered or filed in the county in which the real estate of the judgment debtor is situated, from the time of the entry or filing thereof;

(2) Judgments of the superior court for the county in which the real estate of the judgment debtor is situated, from the time of the filing by the county clerk upon the execution docket in accordance with RCW 4.64.030;

(3) Judgments of the district court of the United States rendered in any county in this state other than that in which the real estate of the judgment debtor to be affected is situated, judgments of the supreme court of this state, judgments of the court of appeals of this state, and judgments of the superior court for any county other than that in which the real estate of the judgment debtor to be affected is situated, from the time of the filing of a duly certified abstract of such judgment with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, as provided in this act;

(4) Judgments of a district court of this state rendered or filed as a foreign judgment in a superior court in the county in which the real estate of the judgment debtor is situated, from the time of the filing of a duly certified district court judgment or duly certified transcript of the docket of the district court with the county clerk of the county in which such judgment was rendered or filed, and upon such filing said judgment shall become to all intents and purposes a judgment of the superior court for said county; and

(5) Judgments of a district court of this state rendered or filed in a superior court in any other county in this state than that in which the real estate of the judgment debtor to be affected is situated, a transcript of the docket of which has been filed with the county clerk of the county where such judgment was rendered or filed, from the time of filing, with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, of a duly certified abstract of the record of said judgment in the office of the county clerk of the county in which the certified transcript of the docket of said judgment of said district court was originally filed.

Sec. 9. RCW 43.79.505 and 2011 1st sp.s. c 44 s 6 are each amended to read as follows:

The judicial stabilization trust account is created within the state treasury, subject to appropriation. All receipts from the surcharges authorized by RCW 3.62.060(2), (~~(12.40.020(2),)~~) 12.40.020, 36.18.018(4), and 36.18.020(5) shall be deposited in this account. Moneys in the account may be spent only after appropriation.

Expenditures from the account may be used only for the support of judicial branch agencies.

NEW SECTION. Sec. 10. RCW 12.40.110 (Procedure on nonpayment) and 2016 c 202 s 19, 1998 c 52 s 6, 1995 c 292 s 6, 1984 c 258 s 68, 1983 c 254 s 3, 1975 1st ex.s. c 40 s 1, 1973 c 128 s 2, & 1919 c 187 s 11 are each repealed.

Passed by the House March 11, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 252

[Engrossed Second Substitute House Bill 1599]

HIGH SCHOOL GRADUATION REQUIREMENTS

AN ACT Relating to promoting career and college readiness through modified high school graduation requirements; amending RCW 28A.655.065, 28A.230.090, 28A.155.045, 28A.655.061, 28A.155.170, 28A.180.100, 28A.195.010, 28A.200.010, 28A.230.122, 28A.230.125, 28A.305.130, 28A.320.190, 28A.320.208, 28A.600.310, 28A.700.080, 28A.415.360, 28A.655.068, 28A.655.070,

28A.655.090, 28A.655.200, 28A.655.063, and 28A.320.195; adding new sections to chapter 28A.655 RCW; adding a new section to chapter 28A.230 RCW; creating new sections; repealing RCW 28A.655.066; providing effective dates; providing expiration dates; and declaring an emergency.

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

PART I

DECOUPLING STATEWIDE ASSESSMENTS FROM GRADUATION REQUIREMENTS AND MAKING OTHER MODIFICATIONS

NEW SECTION. Sec. 101. The legislature intends to continue providing students with the opportunity to access a challenging learning environment and a meaningful diploma that supports every student in achieving his or her individualized career and college goals.

In an ongoing effort to create an educational system focused on individualized student learning that is culturally responsive to the needs of our diverse student population, the legislature must provide a system that allows each student to work with his or her teachers, parents or guardians, and counselors to identify the best ways to demonstrate appropriate readiness in furtherance of the student's career and college goals.

The legislature further recognizes that student-focused graduation pathways must be adaptable and allow students to change pathways as their goals shift. While standardized tests may be a graduation pathway option chosen by some to demonstrate career and college readiness, students should have other rigorous and meaningful pathway options to select from when demonstrating their proficiencies. The legislature, therefore, intends to create a system of multiple graduation pathway options that enable students to support their individual goals for high school and beyond.

Sec. 102. RCW 28A.655.065 and 2017 3rd sp.s. c 31 s 2 are each amended to read as follows:

(1) The legislature has made a commitment to rigorous academic standards for receipt of a high school diploma. The primary way that students will demonstrate that they meet the standards in reading, writing, mathematics, and science is through the statewide student assessment. Only objective assessments that are comparable in rigor to the state assessment are authorized as an alternative assessment. Before seeking an alternative assessment, the legislature expects students to make a genuine effort to meet state standards, through regular and consistent attendance at school and participation in extended learning and other assistance programs.

(2) Under RCW 28A.655.061, beginning in the 2006-07 school year, and concluding with the graduating class of 2019, the superintendent of public instruction shall implement objective alternative assessment methods as provided in this section for students to demonstrate achievement of the state standards in content areas in which the student has not yet met the standard on the high school statewide student assessment. A student may access an alternative if the student meets applicable eligibility criteria in RCW 28A.655.061 and this section and other eligibility criteria established by the superintendent of public instruction, including but not limited to attendance criteria and participation in the remediation or supplemental instruction contained in the student learning plan developed under RCW 28A.655.061. A

school district may waive attendance and/or remediation criteria for special, unavoidable circumstances.

(3) For the purposes of this section, "applicant" means a student seeking to use one of the alternative assessment methods in this section.

(4) One alternative assessment method shall be a combination of the applicant's grades in applicable courses and the applicant's highest score on the high school statewide student assessment, as provided in this subsection. A student is eligible to apply for the alternative assessment method under this subsection (4) if the student has a cumulative grade point average of at least 3.2 on a four point grading scale. The superintendent of public instruction shall determine which high school courses are applicable to the alternative assessment method and shall issue guidelines to school districts.

(a) Using guidelines prepared by the superintendent of public instruction, a school district shall identify the group of students in the same school as the applicant who took the same high school courses as the applicant in the applicable content area. From the group of students identified in this manner, the district shall select the comparison cohort that shall be those students who met or slightly exceeded the state standard on the statewide student assessment.

(b) The district shall compare the applicant's grades in high school courses in the applicable content area to the grades of students in the comparison cohort for the same high school courses. If the applicant's grades are equal to or above the mean grades of the comparison cohort, the applicant shall be deemed to have met the state standard on the alternative assessment.

(c) An applicant may not use the alternative assessment under this subsection (4) if there are fewer than six students in the comparison cohort.

(5) The superintendent of public instruction shall implement:

(a) By June 1, 2006, a process for students to appeal the score they received on the high school assessments;

(b) By January 1, 2007, guidelines and appeal processes for waiving specific requirements in RCW 28A.655.061 pertaining to the certificate of academic achievement and to the certificate of individual achievement for students who: (i) Transfer to a Washington public school in their junior or senior year with the intent of obtaining a public high school diploma, or (ii) have special, unavoidable circumstances;

(c)(i) For the graduating classes of 2014, 2015, 2016, 2017, ~~(and)~~ 2018, 2019, and 2020, an expedited appeal process for waiving specific requirements in RCW 28A.655.061 pertaining to the certificate of academic achievement and the certificate of individual achievement for eligible students who have not met the state standard on the English language arts statewide student assessment, the mathematics high school statewide student assessment, or both. The student or the student's parent, guardian, or principal may initiate an appeal with the district and the district has the authority to determine which appeals are submitted to the superintendent of public instruction for review and approval. The superintendent of public instruction may only approve an appeal if it has been demonstrated that the student has the necessary skills and knowledge to meet the high school graduation standard and that the student has the skills necessary to successfully achieve the college or career goals established in his or her high school and beyond plan. Pathways for demonstrating the necessary skills and knowledge may include, but are not limited to:

(A) Successful completion of a college-level class in the relevant subject area;

(B) Admission to a higher education institution or career preparation program;

(C) Award of a scholarship for higher education; or

(D) Enlistment in a branch of the military.

(ii) A student in the class of 2014, 2015, 2016, or 2017 is eligible for the expedited appeal process in (c)(i) of this subsection if he or she has met all other graduation requirements established by the state and district.

(iii) A student in the class of 2018 is eligible for the expedited appeal process in (c)(i) of this subsection if he or she has met all other graduation requirements established by the state and district and has attempted at least one alternative assessment option as established in (~~RCW 28A.655.065~~) this section.

(6) The state board of education shall examine opportunities for additional alternative assessments, including the possible use of one or more standardized norm-referenced student achievement tests and the possible use of the reading, writing, or mathematics portions of the ACT ASSET and ACT COMPASS test instruments as objective alternative assessments for demonstrating that a student has met the state standards for the certificate of academic achievement. The state board shall submit its findings and recommendations to the education committees of the legislature by January 10, 2008.

(7) The superintendent of public instruction shall adopt rules to implement this section.

(8) This section expires August 31, 2022.

Sec. 103. RCW 28A.230.090 and 2018 c 229 s 1 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 section 201 of this act 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 (~~prepare~~) inform course taking that is

aligned with the student's goals for ~~((postsecondary))~~ 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 ~~((have not met the high school graduation standard))~~ are not on track to graduate, to enable them to ~~((meet the standard))~~ 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)~~((iii))~~ (iv) prevents districts from providing high school and beyond plans to parents and guardians in additional languages that are not required by this subsection.

~~((iv))~~ (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 ~~((but not limited to))~~ 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 ~~((dual credit programs and the opportunities they create for students))~~ 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;
~~((and))~~

(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) A 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)(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). The rules must include authorization for a school district to waive up to two credits for individual students based on ~~((unusual))~~ a student's circumstances ~~((and in accordance with))~~, 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.

(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) 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) ~~((H))~~ Unless requested otherwise by the student and ~~((his or her))~~ 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.

Sec. 104. RCW 28A.155.045 and 2007 c 354 s 3 are each amended to read as follows:

Beginning with the graduating class of 2008, and concluding with the graduating class of 2021, students served under this chapter, who are not appropriately ~~((assessed))~~ served by the ~~((high school Washington assessment system as defined in RCW 28A.655.061))~~ graduation pathway options established in section 201 of this act, even with accommodations, may earn a certificate of individual achievement. The certificate may be earned using multiple ~~((ways))~~ measures to demonstrate skills and abilities commensurate with their ~~((individual))~~ individualized education programs. The determination of whether the ~~((high school assessment system is))~~ graduation pathway options established in section 201 of this act or the multiple measures authorized in this section are appropriate shall be made by the student's ~~((individual))~~ individualized education program team. ~~((Except as provided in RCW 28A.655.061-1,))~~ For ((these)) the students who use the multiple measures authorized by this section, the certificate of individual achievement is required for graduation from a public high school ~~((, but need not be the only requirement for graduation. When measures other than the high school assessment system as defined in RCW 28A.655.061 are used,))~~. The multiple measures ((shall)) that may be used to demonstrate skills and abilities of students under this section must be in agreement with the appropriate educational opportunity provided for the student as required by this chapter. The superintendent of public instruction, in consultation with the state special education advisory council, shall develop the guidelines for determining ((which students should not be required to participate in the high school assessment system and)) which types of ((assessments)) multiple measures to demonstrate skills and abilities under this section are appropriate to use and graduation pathways that might be added to those in section 201 of this act to support achievement of all students served under this chapter.

~~((When measures other than the high school assessment system as defined in RCW 28A.655.061 are used for high school graduation purposes, the student's high school transcript shall note whether that student has earned a certificate of individual achievement.))~~

Nothing in this section shall be construed to deny a student the right to participation in the ~~((high school assessment system as defined in RCW 28A.655.061, and, upon successfully meeting the high school standard, receipt of the certificate of academic achievement))~~ graduation pathway options established in section 201 of this act.

This section expires August 31, 2024.

Sec. 105. RCW 28A.655.061 and 2017 3rd sp.s. c 31 s 1 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the statewide student assessment, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and, if

approved by the legislature pursuant to subsection ~~((10))~~ (9) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the statewide student assessment for each content area.

(2) Subject to the conditions in this section, and concluding with the graduating class of 2019, a certificate of academic achievement shall be obtained and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 (~~or 28A.655.0611~~), acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3)(a) Beginning with the graduating class of 2008 through the graduating class of 2015, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the English language arts and mathematics high school statewide student assessment shall earn a certificate of academic achievement. The mathematics assessment shall be the end-of-course assessment for the first year of high school mathematics that assesses the standards common to algebra I and integrated mathematics I or the end-of-course assessment for the second year of high school mathematics that assesses standards common to geometry and integrated mathematics II.

(b) As the state transitions from reading and writing assessments to an English language arts assessment and from end-of-course assessments to a comprehensive assessment for high school mathematics, a student in a graduating class of 2016 through 2018 shall earn a certificate of academic achievement if the student meets the high school graduation standard as follows:

(i) Students in the graduating class of 2016 may use the results from:

(A) The reading and writing assessment or the English language arts assessment developed with the multistate consortium; and

(B) The end-of-course assessment for the first year of high school mathematics, the end-of-course assessment for the second year of high school mathematics, or the comprehensive mathematics assessment developed with the multistate consortium.

(ii) Students in the graduating classes of 2017 and 2018 may use the results from:

(A) The tenth grade English language arts assessment developed by the superintendent of public instruction using resources from the multistate consortium or the English language arts assessment developed with the multistate consortium; and

(B) The end-of-course assessment for the first year of high school mathematics, the end-of-course assessment for the second year of high school mathematics, or the comprehensive mathematics assessment developed with the multistate consortium.

(c) Beginning with the graduating class of 2019, a student who meets the high school graduation standard on the high school English language arts assessment developed with the multistate consortium and the comprehensive mathematics assessment developed with the multistate consortium shall earn a certificate of academic achievement.

~~(d) ((Beginning with the graduating class of 2020, a student who meets the high school graduation standard on the high school English language arts assessment developed with the multistate consortium and the comprehensive mathematics assessment developed with the multistate consortium to be administered in tenth grade shall earn a certificate of academic achievement.~~

~~(e))~~ If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area at least twice a year at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection ~~((4))~~ (9) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the statewide student assessment at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

~~(4) ((Beginning with the graduating class of 2021, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the statewide student assessment, a retake, or the objective alternative assessments in order to earn a certificate of academic achievement. The assessment under this subsection must be a comprehensive assessment of the science essential academic learning requirements adopted by the superintendent of public instruction in 2013.~~

~~(5))~~ The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

~~((6))~~ (5) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

~~((7))~~ (6) School districts must make available to students the following options:

(a) To retake the statewide student assessment at least twice a year in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the statewide student assessment at least twice a year in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

~~((8))~~ (7) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

~~((9))~~ (8) Opportunities to retake the assessment at least twice a year shall be available to each school district.

~~((40))~~ (9)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the statewide student assessment and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the SAT or the ACT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the statewide student assessment. A student's score on the science portion of the ACT or the science subject area tests of the SAT may be used as an objective alternative assessment under this section as soon as the state board of education determines that sufficient data is available to identify reliable equivalent scores for the science content area of the statewide student assessment. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the statewide student assessment. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the statewide student assessment; and for the English language arts portion of the assessment developed with the multistate consortium, once established in the 2014-15 school year. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the statewide student assessment; and for the English language arts portion of the assessment developed with the multistate consortium, once established in the 2014-15 school year. A score of three on the AP examination in biology, physics, chemistry, or environmental science may be used as an alternative assessment for the science portion of the statewide student assessment.

(iii) A student who scores at least a four on selected externally administered international baccalaureate (IB) examinations may use the score as an objective

alternative assessment under this section for demonstrating that the student has met or exceeded state standards for the certificate of academic achievement. A score of four on the higher level IB examinations for any of the IB English language and literature courses or for any of the IB individuals and societies courses may be used as an alternative assessment for the reading, writing, or English language arts portions of the statewide student assessment. A score of four on the higher level IB examinations for any of the IB mathematics courses may be used as an alternative assessment for the mathematics portion of the statewide student assessment. A score of four on the higher level IB examinations for IB biology, chemistry, or physics may be used as an alternative assessment for the science portion of the statewide student assessment.

(iv)(A) (~~(Beginning)~~) In the 2018-19 school year, high school students who have not earned a certificate of academic achievement due to not meeting the high school graduation standard on the mathematics or English language arts assessment may take and pass a locally determined course in the content area in which the student was not successful, and may use the passing score on a locally administered assessment tied to that course and approved under the provisions of this subsection (~~((H0))~~) (9)(b)(iv), as an objective alternative assessment for demonstrating that the student has met or exceeded the high school graduation standard. High school transition courses and the assessments offered in association with high school transition courses shall be considered an approved locally determined course and assessment for demonstrating that the student met or exceeded the high school graduation standard. The course must be rigorous and consistent with the student's educational and career goals identified in his or her high school and beyond plan, and may include career and technical education equivalencies in English language arts or mathematics adopted pursuant to RCW 28A.230.097. School districts shall record students' participation in locally determined courses under this section in the statewide individual data system.

(B) The office of the superintendent of public instruction shall develop a process by which local school districts can submit assessments for review and approval for use as objective alternative assessments for graduation as allowed by (b)(iv) of this subsection. This process shall establish means to determine whether a local school district-administered assessment is comparable in rigor to the skills and knowledge that the student must demonstrate on the statewide student assessment and is objective in its determination of student achievement of the state standards. The office of the superintendent of public instruction shall post on its agency web site a compiled list of local school district-administered assessments approved as objective alternative assessments, including the comparable scores on these assessments necessary to meet the standard.

(C) For the purpose of this section, "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, in accordance with this section, 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 any institution of higher education as defined in RCW 28B.10.016.

(v) A student who completes a dual credit course in English language arts or mathematics in which the student earns college credit may use passage of the course as an objective alternative assessment under this section for demonstrating that the student has met or exceeded the high school graduation standard for the certificate of academic achievement.

~~((++))~~ (10) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall:

(a) Provide students who have not earned a certificate of academic achievement before the beginning of grade eleven with the opportunity to access interventions and academic supports, courses, or both, designed to enable students to meet the high school graduation standard. These interventions, supports, or courses must be rigorous and consistent with the student's educational and career goals identified in his or her high school and beyond plan, and may include career and technical education equivalencies in English language arts or mathematics adopted pursuant to RCW 28A.230.097; and

(b) Prepare student learning plans and notify students and their parents or legal guardians as provided in this subsection. Student learning plans are required for eighth grade students who were not successful on any or all of the content areas of the state assessment during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

- (i) The student's results on the state assessment;
- (ii) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;
- (iii) Any credit deficiencies;
- (iv) The student's attendance rates over the previous two years;
- (v) The student's progress toward meeting state and local graduation requirements;
- (vi) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;
- (vii) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;
- (viii) The alternative assessment options available to students under this section and RCW 28A.655.065;
- (ix) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and
- (x) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

(11) This section expires August 31, 2022.

Sec. 106. RCW 28A.155.170 and 2007 c 318 s 2 are each amended to read as follows:

(1) Beginning July 1, 2007, each school district that operates a high school shall establish a policy and procedures that permit any student who is receiving special education or related services under an individualized education program pursuant to state and federal law and who will continue to receive such services between the ages of eighteen and twenty-one to participate in the graduation ceremony and activities after four years of high school attendance with his or her age-appropriate peers and receive a certificate of attendance.

(2) Participation in a graduation ceremony and receipt of a certificate of attendance under this section does not preclude a student from continuing to receive special education and related services under an individualized education program beyond the graduation ceremony.

(3) A student's participation in a graduation ceremony and receipt of a certificate of attendance under this section shall not be construed as the student's receipt of ~~((either:~~

~~(a)) a high school diploma pursuant to RCW 28A.230.120(~~;-or~~~~

~~(b) A certificate of individual achievement pursuant to RCW 28A.155.045)).~~

Sec. 107. RCW 28A.180.100 and 2004 c 19 s 105 are each amended to read as follows:

The office of the superintendent of public instruction and the state board for community and technical colleges shall jointly develop a program plan to provide a continuing education option for students who are eligible for the state transitional bilingual instruction program and who need more time to develop language proficiency but who are more age-appropriately suited for a postsecondary learning environment than for a high school. ~~((In developing the plan, the superintendent of public instruction shall consider options to formally recognize the accomplishments of students in the state transitional bilingual instruction program who have completed the twelfth grade but have not earned a certificate of academic achievement.))~~ By December 1, 2004, the agencies shall report to the legislative education and fiscal committees with any recommendations for legislative action and any resources necessary to implement the plan.

Sec. 108. RCW 28A.195.010 and 2018 c 177 s 201 are each amended to read as follows:

The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

The administrative or executive authority of private schools or private school districts shall file each year with the state board of education a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. The state board of education may request clarification or additional information. After review of the statement, the state board of education will notify schools or school districts of any concerns, deficiencies, and deviations which must be corrected. If there are any unresolved concerns, deficiencies, or deviations, the school or school district may request or the state

board of education on its own initiative may grant provisional status for one year in order that the school or school district may take action to meet the requirements. The state board of education shall not require private school students to meet the student learning goals, ~~((obtain a certificate of academic achievement, or a certificate of individual achievement to graduate from high school,))~~ to ~~((master))~~ learn the ~~((essential academic))~~ state learning ~~((requirements))~~ standards, or to be assessed pursuant to RCW ~~((28A.655.061))~~ 28A.655.070. However, private schools may choose, on a voluntary basis, to have their students ~~((master))~~ learn these ~~((essential academic))~~ state learning ~~((requirements,))~~ standards or take the assessments~~((, and obtain a certificate of academic achievement or a certificate of individual achievement))~~. Minimum requirements shall be as follows:

(1) The minimum school year for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum instructional hour offerings, with a school-wide annual average total instructional hour offering of one thousand hours for students enrolled in grades one through twelve, and at least four hundred fifty hours for students enrolled in kindergarten.

(2) The school day shall be the same as defined in RCW 28A.150.203.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the state board of education reporting and explaining such circumstances.

(4) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certificated under chapter 28A.410 RCW;

(b) The planning by the certificated person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certificated person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certificated person; and

(e) The certificated employee shall not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(6) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate

physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection (4) of this section.

(7) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (7) of this section provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved.

Sec. 109. RCW 28A.200.010 and 2004 c 19 s 107 are each amended to read as follows:

(1) Each parent whose child is receiving home-based instruction under RCW 28A.225.010(4) shall have the duty to:

(a) File annually a signed declaration of intent that he or she is planning to cause his or her child to receive home-based instruction. The statement shall include the name and age of the child, shall specify whether a certificated person will be supervising the instruction, and shall be written in a format prescribed by the superintendent of public instruction. Each parent shall file the statement by September 15th of the school year or within two weeks of the beginning of any public school quarter, trimester, or semester with the superintendent of the public school district within which the parent resides or the district that accepts the transfer, and the student shall be deemed a transfer student of the nonresident district. Parents may apply for transfer under RCW 28A.225.220;

(b) Ensure that test scores or annual academic progress assessments and immunization records, together with any other records that are kept relating to the instructional and educational activities provided, are forwarded to any other public or private school to which the child transfers. At the time of a transfer to a public school, the superintendent of the local school district in which the child enrolls may require a standardized achievement test to be administered and shall have the authority to determine the appropriate grade and course level placement of the child after consultation with parents and review of the child's records; and

(c) Ensure that a standardized achievement test approved by the state board of education is administered annually to the child by a qualified individual or that an annual assessment of the student's academic progress is written by a certificated person who is currently working in the field of education. The state board of education shall not require these children to meet the student learning goals, ~~((master))~~ learn the ~~((essential academic))~~ state learning ~~((requirements))~~ standards, ~~((to))~~ or take the assessments ~~((, or to obtain a certificate of academic achievement or a certificate of individual achievement pursuant to RCW 28A.655.061 and 28A.155.045))~~ under RCW 28A.655.070. The standardized test administered or the annual academic progress assessment written shall be made a part of the child's permanent records. If, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress

consistent with his or her age or stage of development, the parent shall make a good faith effort to remedy any deficiency.

(2) Failure of a parent to comply with the duties in this section shall be deemed a failure of such parent's child to attend school without valid justification under RCW 28A.225.020. Parents who do comply with the duties set forth in this section shall be presumed to be providing home-based instruction as set forth in RCW 28A.225.010(4).

Sec. 110. RCW 28A.230.122 and 2011 c 203 s 1 are each amended to read as follows:

(1) A student who fulfills the requirements specified in subsection (3) of this section toward completion of an international baccalaureate diploma programme is considered to have met the requirements of the graduation pathway option established in section 201(1)(b)(iv) of this act and to have satisfied state minimum requirements for graduation from a public high school, except that(=

~~(a) The provisions of RCW 28A.655.061 regarding the certificate of academic achievement or RCW 28A.155.045 regarding the certificate of individual achievement apply to students under this section; and~~

~~(b)) the provisions of RCW 28A.230.170 regarding study of the United States Constitution and the Washington state Constitution apply to students under this section.~~

(2) School districts may require students under this section to complete local graduation requirements that are in addition to state minimum requirements before issuing a high school diploma under RCW 28A.230.120. However, school districts are encouraged to waive local requirements as necessary to encourage students to pursue an international baccalaureate diploma.

(3) To receive a high school diploma under this section, a student must complete and pass all required international baccalaureate diploma programme courses as scored at the local level; pass all internal assessments as scored at the local level; successfully complete all required projects and products as scored at the local level; and complete the final examinations administered by the international baccalaureate organization in each of the required subjects under the diploma programme.

Sec. 111. RCW 28A.230.125 and 2014 c 102 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the four-year institutions as defined in RCW 28B.76.020, the state board for community and technical colleges, and the workforce training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

~~(2) ((The standardized high school transcript shall include a notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement.~~

~~(3)) The standardized high school transcript may include a notation of whether the student has earned the Washington state seal of biliteracy established under RCW 28A.300.575.~~

Sec. 112. RCW 28A.305.130 and 2017 3rd sp.s. c 31 s 3 are each amended to read as follows:

The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability framework that creates a unified system of increasing levels of support for schools in order to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business;

(2) Form committees as necessary to effectively and efficiently conduct the work of the board;

(3) Seek advice from the public and interested parties regarding the work of the board;

(4) For purposes of statewide accountability:

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all students, economically disadvantaged students, limited English proficient students, students with disabilities, and students from disproportionately academically underachieving racial and ethnic backgrounds. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b)(i)(A) Identify the scores students must achieve in order to meet the standard on the statewide student assessment, and the SAT or the ACT if used to demonstrate career and college readiness under section 201 of this act. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose;

(B) To permit the legislature to take any statutory action it deems warranted before modified or newly established scores are implemented, the board shall notify the education committees of the house of representatives and the senate of any scores that are modified or established under (b)(i)(A) of this subsection on

or after July 28, 2019. The notifications required by this subsection (4)(b)(i)(B) must be provided by November 30th of the year proceeding the beginning of the school year in which the modified or established scores will take effect;

~~((A))~~ The legislature intends to continue the implementation of chapter 22, Laws of 2013~~((7))~~ 2nd sp. sess. when the legislature expressed the intent for the state board of education to identify the student performance standard that demonstrates a student's career and college readiness for the eleventh grade consortium-developed assessments. Therefore, by December 1, 2018, the state board of education, in consultation with the superintendent of public instruction, must identify and report to the governor and the education policy and fiscal committees of the legislature on the equivalent student performance standard that a tenth grade student would need to achieve on the state assessments to be on track to be career and college ready at the end of the student's high school experience;

~~((B) Nothing in this section prohibits the state board of education from identifying a college and career readiness score that is different from the score required for high school graduation purposes;))~~

(iii) The legislature shall be advised of the initial performance standards and any changes made to the elementary, middle, and high school level performance standards. The board must provide an explanation of and rationale for all initial performance standards and any changes, for all grade levels of the statewide student assessment. If the board changes the performance standards for any grade level or subject, the superintendent of public instruction must recalculate the results from the previous ten years of administering that assessment regarding students below, meeting, and beyond the state standard, to the extent that this data is available, and post a comparison of the original and recalculated results on the superintendent's web site;

(c) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system; and

(d) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board;

(5) Accredited, subject to such accreditation standards and procedures as may be established by the state board of education, all private schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve. However, no private school may be approved that operates a kindergarten program only and no private school shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials;

(6) Articulate with the institutions of higher education, workforce representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

(7) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW

28A.300.020. The board may delegate to the executive director by resolution such duties as deemed necessary to efficiently carry on the business of the board including, but not limited to, the authority to employ necessary personnel and the authority to enter into, amend, and terminate contracts on behalf of the board. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW; and

(8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

Sec. 113. RCW 28A.320.190 and 2009 c 578 s 2 are each amended to read as follows:

(1) The extended learning opportunities program is created for eligible eleventh and twelfth grade students who are not on track to meet local or state graduation requirements as well as eighth grade students who need additional assistance in order to have the opportunity for a successful entry into high school. The program shall provide early notification of graduation status and information on education opportunities including preapprenticeship programs that are available.

(2) Under the extended learning opportunities program and to the extent funds are available for that purpose, districts shall make available to students in grade twelve who have failed to meet one or more local or state graduation requirements the option of continuing enrollment in the school district in accordance with RCW 28A.225.160. Districts are authorized to use basic education program funding to provide instruction to eligible students under RCW 28A.150.220~~((3))~~(5).

(3) Under the extended learning opportunities program, instructional services for eligible students can occur during the regular school day, evenings, on weekends, or at a time and location deemed appropriate by the school district, including the educational service district, in order to meet the needs of these students. Instructional services provided under this section do not include services offered at private schools. Instructional services can include, but are not limited to, the following:

(a) Individual or small group instruction;

~~(b) ((Instruction in English language arts and/or mathematics that eligible students need to pass all or part of the Washington assessment of student learning;~~

~~((e)))~~ Attendance in a public high school or public alternative school classes or at a skill center;

~~((d)))~~ (c) Inclusion in remediation programs, including summer school;

~~((e)))~~ (d) Language development instruction for English language learners;

~~((f)))~~ (e) Online curriculum and instructional support, including programs for credit retrieval and ~~((Washington))~~ statewide student assessment ~~((of student learning))~~ preparatory classes; and

~~((e)))~~ (f) Reading improvement specialists available at the educational service districts to serve eighth, eleventh, and twelfth grade educators through professional development in accordance with RCW 28A.415.350. The reading improvement specialist may also provide direct services to eligible students and

those students electing to continue a fifth year in a high school program who are still struggling with basic reading skills.

Sec. 114. RCW 28A.320.208 and 2013 2nd sp.s. c 22 s 8 are each amended to read as follows:

(1) At the beginning of each school year, school districts must notify parents and guardians of enrolled students from eighth through twelfth grade about each student assessment required by the state, the minimum state-level graduation requirements, and any additional school district graduation requirements. The information may be provided when the student is enrolled, contained in the student or parent handbook, or posted on the school district's web site. The notification must include the following:

- (a) When each assessment will be administered;
- (b) ~~((Which assessments will be required for graduation and what options students have to meet graduation requirements if they do not pass a given assessment;~~
- (~~e~~)) Whether the results of the assessment will be used for program placement or grade-level advancement;
- ~~((d))~~ (c) When the assessment results will be released to parents or guardians and whether there will be an opportunity for parents and teachers to discuss strategic adjustments; and
- ~~((e))~~ (d) Whether the assessment is required by the school district, state, federal government, or more than one of these entities.

(2) The office of the superintendent of public instruction shall provide information to the school districts to enable the districts to provide the information to the parents and guardians in accordance with subsection (1) of this section.

Sec. 115. RCW 28A.600.310 and 2015 c 202 s 4 are each amended to read as follows:

(1)(a) Eleventh and twelfth 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 or twelfth grades 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 receiving home-based instruction 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~~((— obtain a certificate of academic achievement or a certificate of~~

~~individual achievement to graduate from high school,)) or to ((master)) learn the ((essential academic)) state learning ((requirements)) 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. Participating institutions of higher education, in consultation with school districts, may establish admission standards for these students. If the institution of higher education accepts a secondary school pupil for enrollment under this section, the institution of higher education shall send written notice to the pupil and the pupil's school district within ten days of acceptance. The notice shall indicate the course and hours of enrollment for that pupil.~~

(2)(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 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 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) shall be prorated based on credit load.

(c) Students may pay fees under this subsection 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)(a) The institutions of higher education must make available fee waivers for low-income running start students. Each institution must establish a written policy for the determination of low-income students before offering the fee waiver. A student shall be considered low income and eligible for a fee waiver upon proof that the student is currently qualified to receive free or reduced-price lunch. 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) 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 web sites, 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) The pupil'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.

Sec. 116. RCW 28A.700.080 and 2008 c 170 s 301 are each amended to read as follows:

(1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall develop and conduct an ongoing campaign for career and technical education to increase awareness among teachers, counselors, students, parents, principals, school administrators, and the general public about the opportunities offered by rigorous career and technical education programs. Messages in the campaign shall emphasize career and technical education as a high quality educational pathway for students, including for students who seek advanced education that includes a bachelor's degree or beyond. In particular, the office shall provide information about the following:

(a) The model career and technical education programs of study developed under RCW 28A.700.060;

(b) Career and technical education course equivalencies and dual credit for high school and college;

~~(c) ((The career and technical education alternative assessment guidelines under RCW 28A.655.065;~~

~~(d))~~ The availability of scholarships for postsecondary workforce education, including the Washington award for vocational excellence, and apprenticeships through the opportunity grant program under RCW 28B.50.271, grants under RCW 28A.700.090, and other programs; and

~~((e))~~ (d) Education, apprenticeship, and career opportunities in emerging and high-demand programs.

(2) The office shall use multiple strategies in the campaign depending on available funds, including developing an interactive web site to encourage and facilitate career exploration; conducting training and orientation for guidance counselors and teachers; and developing and disseminating printed materials.

(3) The office shall seek advice, participation, and financial assistance from the workforce training and education coordinating board, higher education institutions, foundations, employers, apprenticeship and training councils,

workforce development councils, and business and labor organizations for the campaign.

Sec. 117. RCW 28A.415.360 and 2009 c 548 s 403 are each amended to read as follows:

(1) Subject to funds appropriated for this purpose, targeted professional development programs, to be known as learning improvement days, are authorized to further the development of outstanding mathematics, science, and reading teaching and learning opportunities in the state of Washington. The intent of this section is to provide guidance for the learning improvement days in the omnibus appropriations act. The learning improvement days authorized in this section shall not be considered part of the definition of basic education.

(2) A school district is eligible to receive funding for learning improvement days that are limited to specific activities related to student learning that contribute to the following outcomes:

(a) Provision of meaningful, targeted professional development for all teachers in mathematics, science, or reading;

(b) Increased knowledge and instructional skill for mathematics, science, or reading teachers;

(c) Increased use of curriculum materials with supporting diagnostic and supplemental materials that align with state standards;

~~(d) ((Skillful guidance for students participating in alternative assessment activities;~~

~~(e)))~~ Increased rigor of course offerings especially in mathematics, science, and reading;

~~((f)))~~ (e) Increased student opportunities for focused, applied mathematics and science classes;

~~((g)))~~ (f) Increased student success on state achievement measures; and

~~((h)))~~ (g) Increased student appreciation of the value and uses of mathematics, science, and reading knowledge and exploration of related careers.

(3) School districts receiving resources under this section shall submit reports to the superintendent of public instruction documenting how the use of the funds contributes to measurable improvement in the outcomes described under subsection (2) of this section; and how other professional development resources and programs authorized in statute or in the omnibus appropriations act contribute to the expected outcomes. The superintendent of public instruction and the office of financial management shall collaborate on required report content and format.

Sec. 118. RCW 28A.655.068 and 2017 3rd sp.s. c 31 s 6 are each amended to read as follows:

(1) ~~((Beginning in the 2011-12 school year,))~~ The statewide high school assessment in science shall be ((an end-of-course)) a comprehensive assessment ((for biology)) that measures the state standards for the application of science and engineering practices, disciplinary core ideas, and crosscutting concepts in the domains of physical sciences, life sciences, ((in addition to systems, inquiry, and application as they pertain to life sciences)) Earth and space sciences, and engineering design.

~~((a))~~ The superintendent of public instruction may develop or adopt science end-of-course assessments or a comprehensive science assessment that

~~includes subjects in addition to biology for purposes of RCW 28A.655.061, when so directed by the legislature. The legislature intends to transition from a biology end-of-course assessment to a more comprehensive science assessment in a manner consistent with the way in which the state transitioned to an English language arts assessment and a comprehensive mathematics assessment. The legislature further intends that the transition will include at least two years of using the student assessment results from either the biology end-of-course assessment or the more comprehensive assessment in order to provide students with reasonable opportunities to demonstrate high school competencies while being mindful of the increasing rigor of the new assessment.~~

(b)) The superintendent of public instruction shall develop or adopt a science assessment in accordance with RCW 28A.655.070(10) that is not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

~~((c) Before the next subsequent school year after the legislature directs the superintendent to develop or adopt a new science assessment, the superintendent of public instruction shall review the objective alternative assessments for the science assessment and make recommendations to the legislature regarding additional objective alternatives, if any.))~~

(3) The superintendent of public instruction may participate with consortia of multiple states as common student learning standards and assessments in science are developed. The superintendent of public instruction, in consultation with the state board of education, may modify the ~~((essential academic))~~ state learning ((requirements)) standards and statewide student assessments in science, including the high school assessment, according to the multistate common student learning standards and assessments as long as the education committees of the legislature have opportunities for review before the modifications are adopted, as provided under RCW 28A.655.070.

(4) The statewide high school assessment under this section shall be used to demonstrate that a student meets the state standards in the science content area of the statewide student assessment until a comprehensive science assessment is required under RCW 28A.655.061.

Sec. 119. RCW 28A.655.070 and 2018 c 177 s 401 are each amended to read as follows:

(1) The superintendent of public instruction shall develop ~~((essential academic))~~ state learning ((requirements)) standards that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the ~~((essential academic))~~ state learning ((requirements)) standards, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the ~~((essential academic))~~ state learning ((requirements)) standards; and

(b) Review and prioritize the ~~((essential academic))~~ state learning ((requirements)) standards and identify, with clear and concise descriptions, the

grade level content expectations to be assessed on the statewide student assessment and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its web site any grade level content expectations provided to an assessment vendor for use in constructing the statewide student assessment.

(3)(a) In consultation with the state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the ~~((essential academic))~~ state learning ((requirements)) standards identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system may include a variety of assessment methods, including criterion-referenced and performance-based measures.

(b) Effective with the 2009 administration of the Washington assessment of student learning and continuing with the statewide student assessment, the superintendent shall redesign the assessment in the content areas of reading, mathematics, and science in all grades except high school by shortening test administration and reducing the number of short answer and extended response questions.

(c) By the 2014-15 school year, the superintendent of public instruction, in consultation with the state board of education, shall modify the statewide student assessment system to transition to assessments developed with a multistate consortium, as provided in this subsection:

(i) The assessments developed with a multistate consortium to assess student proficiency in English language arts and mathematics shall be administered beginning in the 2014-15 school year, and beginning with the graduating class of 2020, the assessments must be administered to students in the tenth grade. The reading and writing assessments shall not be administered by the superintendent of public instruction or schools after the 2013-14 school year.

(ii) The high school assessments in English language arts and mathematics in (c)(i) of this subsection shall be used for the purposes of ~~((earning a certificate of academic achievement for high school graduation under the timeline established in RCW 28A.655.061))~~ federal and state accountability and for assessing student career and college readiness.

~~((iii) During the transition period specified in RCW 28A.655.061, the superintendent of public instruction shall use test items and other resources from the consortium assessment to develop and administer a tenth grade high school English language arts assessment, an end-of-course mathematics assessment to assess the standards common to algebra I and integrated mathematics I, and an~~

~~end-of-course mathematics assessment to assess the standards common to geometry and integrated mathematics II.)~~

(d) The statewide academic assessment system must also include the Washington access to instruction and measurement assessment for students with significant cognitive challenges.

(4) If the superintendent proposes any modification to the ~~((essential academic))~~ state learning ((requirements)) standards or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the ~~((essential academic))~~ state learning ((requirements)) standards before the modifications are adopted.

(5) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the ~~((essential academic))~~ state learning ((requirements)) standards at the appropriate periods in the student's educational development.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the ~~((essential academic))~~ state learning ((requirements)) standards and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the ~~((essential academic))~~ state learning ((requirements)) standards, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall review available and appropriate options for competency-based assessments that meet the ~~((essential academic))~~ state learning ((requirements)) standards. In accordance with the review required by this subsection, the superintendent shall provide a report and recommendations to the education committees of the house of representatives and the senate by November 1, 2019.

(12) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(13) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(14) The superintendent shall post on the superintendent's web site lists of resources and model assessments in social studies, the arts, and health and fitness.

(15) The superintendent shall integrate financial education skills and content knowledge into the state learning standards pursuant to RCW 28A.300.460(2)(d).

(16)(a) The superintendent shall notify the state board of education in writing before initiating the development or revision of the ~~((essential academic))~~ state learning ((requirements)) standards under subsections (1) and (2) of this section. The notification must be provided to the state board of education in advance for review at a regularly scheduled or special board meeting and must include the following information:

(i) The subject matter of the ~~((essential academic))~~ state learning ((requirements)) standards;

(ii) The reason or reasons the superintendent is initiating the development or revision; and

(iii) The process and timeline that the superintendent intends to follow for the development or revision.

(b) The state board of education may provide a response to the superintendent's notification for consideration in the development or revision process in (a) of this subsection.

(c) Prior to adoption by the superintendent of any new or revised ~~((essential academic))~~ state learning ((requirements)) standards, the superintendent shall submit the proposed new or revised ~~((essential academic))~~ state learning ((requirements)) standards to the state board of education in advance in writing for review at a regularly scheduled or special board meeting. The state board of education may provide a response to the superintendent's proposal for consideration prior to final adoption.

(17) The state board of education may propose new or revised ~~((essential academic))~~ state learning ((requirements)) standards to the superintendent. The superintendent must respond to the state board of education's proposal in writing.

Sec. 120. RCW 28A.655.090 and 2008 c 165 s 3 are each amended to read as follows:

(1) By September 10, 1998, and by September 10th each year thereafter, the superintendent of public instruction shall report to schools, school districts, and the legislature on the results of the ~~((Washington assessment of student learning and state mandated norm-referenced standardized tests))~~ statewide student assessment.

(2) The reports shall include the assessment results by school and school district, and include changes over time. For the ~~((Washington assessment of student learning))~~ statewide student assessment, results shall be reported as follows:

(a) The percentage of students meeting the standards;

(b) The percentage of students performing at each level of the assessment;

(c) Disaggregation of results 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, beginning with the 2009-10 school year, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794); and

(d) A learning improvement index that shows changes in student performance within the different levels of student learning reported on the ~~((Washington assessment of student learning))~~ statewide student assessment.

(3) The reports shall contain data regarding the different characteristics of schools, such as poverty levels, percent of English as a second language students, dropout rates, attendance, percent of students in special education, and student mobility so that districts and schools can learn from the improvement efforts of other schools and districts with similar characteristics.

(4) The reports shall contain student scores on mandated tests by comparable Washington schools of similar characteristics.

(5) The reports shall contain information on public school choice options available to students, including vocational education.

(6) The reports shall be posted on the superintendent of public instruction's internet web site.

(7) To protect the privacy of students, the results of schools and districts that test fewer than ten students in a grade level shall not be reported. In addition, in order to ensure that results are reported accurately, the superintendent of public instruction shall maintain the confidentiality of statewide data files until the superintendent determines that the data are complete and accurate.

(8) The superintendent of public instruction shall monitor the percentage and number of special education and limited English-proficient students exempted from taking the assessments by schools and school districts to ensure the exemptions are in compliance with exemption guidelines.

Sec. 121. RCW 28A.655.200 and 2009 c 539 s 1 are each amended to read as follows:

(1) The legislature intends to permit school districts to offer norm-referenced assessments, make diagnostic tools available to school districts, and provide funding for diagnostic assessments to enhance student learning at all grade levels and provide early intervention before the high school (~~Washington assessment of student learning~~) statewide student assessment.

(2) In addition to the diagnostic assessments provided under this section, school districts may, at their own expense, administer norm-referenced assessments to students.

(3) Subject to the availability of amounts appropriated for this purpose, the office of the superintendent of public instruction shall post on its web site for voluntary use by school districts, a guide of diagnostic assessments. The assessments in the guide, to the extent possible, shall include the characteristics listed in subsection (4) of this section.

(4) Subject to the availability of amounts appropriated for this purpose, beginning September 1, 2007, the office of the superintendent of public instruction shall make diagnostic assessments in reading, writing, mathematics, and science in elementary, middle, and high school grades available to school districts. Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall also provide funding to school districts for administration of diagnostic assessments to help improve student learning,

identify academic weaknesses, enhance student planning and guidance, and develop targeted instructional strategies to assist students before the high school (~~(Washington assessment of student learning)~~) statewide student assessment. To the greatest extent possible, the assessments shall be:

- (a) Aligned to the state's grade level expectations;
 - (b) Individualized to each student's performance level;
 - (c) Administered efficiently to provide results either immediately or within two weeks;
 - (d) Capable of measuring individual student growth over time and allowing student progress to be compared to other students across the country;
 - (e) Readily available to parents; and
 - (f) Cost-effective.
- (5) The office of the superintendent of public instruction shall offer training at statewide and regional staff development activities in:
- (a) The interpretation of diagnostic assessments; and
 - (b) Application of instructional strategies that will increase student learning based on diagnostic assessment data.

PART II

GRADUATION PATHWAY OPTIONS FOR THE GRADUATING CLASS OF 2020 AND SUBSEQUENT CLASSES

NEW SECTION. Sec. 201. A new section is added to chapter 28A.655 RCW to read as follows:

(1)(a) Beginning with the class of 2020, 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. 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. 202. A new section is added to chapter 28A.655 RCW to read as follows:

(1) The superintendent of public instruction shall collect the following information from school districts: Which of the graduation pathways under section 201 of this act 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 conduct a survey of interested parties regarding what additional graduation pathways should be added to the existing graduation pathways identified in section 201 of this act and whether modifications should be made to any of the existing pathways. Interested parties shall include at a minimum: 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 a report to the education committees of the legislature by August 1, 2020, 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 section 201 of this act 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.

NEW SECTION, Sec. 203. A new section is added to chapter 28A.655 RCW to read as follows:

To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation in whichever graduation pathway the student chooses, each school district shall:

(1) Provide students who did not meet or exceed the standard on the high school assessments in English language arts or mathematics under RCW 28A.655.070, with the opportunity to access any combination of interventions, academic supports, or courses, that are designed to support students in meeting high school graduation requirements. These interventions, supports, and courses must be rigorous and consistent with the student's educational and career goals identified in his or her high school and beyond plan, and may include career and technical education equivalencies in English language arts or mathematics adopted under RCW 28A.230.097; and

(2) Prepare student learning plans and notify students and their parents or legal guardians as provided in this subsection. Student learning plans are required for eighth grade students who were not successful on any or all of the content areas of the state assessment during the previous school year or who are not on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the student learning plan into the primary language of the family. The student learning plan must include the following information as applicable:

- (a) The student's results on the state assessment;
- (b) If the student is in the transitional bilingual instruction program, the score on his or her Washington language proficiency test II;
- (c) Any credit deficiencies;
- (d) The student's attendance rates over the previous two years;
- (e) The student's progress toward meeting state and local graduation requirements;
- (f) The courses, competencies, and other steps the student needs to take to meet state academic standards and stay on track for graduation;
- (g) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until age twenty-one;
- (h) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and
- (i) Available programs offered through skill centers or community and technical colleges, including diploma options under RCW 28B.50.535.

PART III

ESTABLISHING A MASTERY-BASED LEARNING WORK GROUP

NEW SECTION. Sec. 301. (1) By August 1, 2019, the state board of education shall convene a work group to inform the governor, the legislature, and the public about barriers to mastery-based learning in Washington state whereby:

- (a) Students advance upon demonstrated mastery of content;
- (b) Competencies include explicit, measurable, transferable learning objectives that empower students;
- (c) Assessments are meaningful and a positive learning experience for students;
- (d) Students receive rapid, differentiated support based on their individual learning needs; and

(e) Learning outcomes emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions.

(2) The work group shall examine opportunities to increase student access to relevant and robust mastery-based academic pathways aligned to personal career goals and postsecondary education. The work group shall also review the role of the high school and beyond plan in supporting mastery-based learning. The work group shall consider:

(a) Improvements in the high school and beyond plan as an essential tool for mastery-based learning;

(b) Development of mastery-based pathways to the earning of a high school diploma;

(c) The results of the competency-based pathways previously approved by the state board of education under RCW 28A.230.090 as a learning resource; and

(d) Expansion of mastery-based credits to meet graduation requirements.

(3) As part of this work group, the state board of education, in collaboration with the office of the superintendent of public instruction, shall develop enrollment reporting guidelines to support schools operating with waivers issued under RCW 28A.230.090.

(4) The work group must include the following members:

(a) Four legislators: One from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house; and one from each of the two largest caucuses in the senate, appointed by the president of the senate;

(b) Two students as selected by the association of Washington student leaders;

(c) One representative from the educational opportunity gap oversight and accountability committee as selected by the educational opportunity gap oversight and accountability committee;

(d) One high school principal as selected by the association of Washington school principals;

(e) One high school certificated teacher as selected by the Washington education association;

(f) One high school counselor as selected by the Washington education association;

(g) One school district board member or superintendent as selected jointly by the Washington state school directors' association and the Washington association of school administrators;

(h) One representative from the office of the superintendent of public instruction as selected by the superintendent of public instruction; and

(i) One representative from the state board of education as selected by the chair of the state board of education.

(5) The state board of education shall:

(a) Provide staff support to the work group;

(b) Coordinate work group membership to ensure member diversity, including racial, ethnic, gender, geographic, community size, and expertise diversity; and

(c) Submit an interim report outlining preliminary findings and potential recommendations to the governor and the education committees of the house of

representatives and the senate by December 1, 2019, and a final report, provided to the same recipients, detailing all findings and recommendations related to the work group's purpose and tasks by December 1, 2020.

(6) This section expires March 1, 2021.

PART IV

CONTINUED APPLICABILITY OF GRADUATION REQUIREMENTS FOR STUDENTS IN THE GRADUATING CLASS OF 2018 AND PRIOR GRADUATING CLASSES

NEW SECTION. **Sec. 401.** A new section is added to chapter 28A.655 RCW to read as follows:

RCW 28A.155.045, 28A.655.061, and 28A.655.065, as they existed on January 1, 2019, apply to students in the graduating class of 2018 and prior graduating classes.

PART V

ADDITIONAL AND REPEALED PROVISIONS

Sec. 501. RCW 28A.655.063 and 2007 c 354 s 7 are each amended to read as follows:

(1) Subject to the availability of funds appropriated for this purpose, the office of the superintendent of public instruction shall provide funds to school districts to reimburse students for the cost of taking the tests in RCW 28A.655.061(~~((+0))~~) (9)(b) when the students take the tests for the purpose of using the results as an objective alternative assessment. The office of the superintendent of public instruction may, as an alternative to providing funds to school districts, arrange for students to receive a testing fee waiver or make other arrangements to compensate the students.

(2) This section expires August 31, 2021.

Sec. 502. RCW 28A.320.195 and 2013 c 184 s 2 are each amended to read as follows:

(1) By the 2021-22 school year, each school district board of directors ((is encouraged to)) shall adopt an academic acceleration policy for high school students as provided under this section.

(2) Under an academic acceleration policy:

(a) The district shall automatically enroll(~~((s))~~) any student who meets or exceeds the state standard on the eighth grade or high school English language arts or mathematics statewide student assessment in the next most rigorous level of advanced courses or program offered by the high school(~~((Students who successfully complete such an advanced course are then enrolled in the next most rigorous level of advanced course, with the objective that students will eventually be automatically enrolled in courses that offer the opportunity to earn dual credit for high school and college))~~) that aligns with the student's high school and beyond plan goals.

(b) Each school district may include additional eligibility criteria for students to participate in the academic acceleration policy so long as the district criteria does not create inequities among student groups in the advanced course or program.

(3)(a) The subject matter of the advanced courses or program in which ~~((the))~~ a student is automatically enrolled depends on the content area or areas of the ~~((statewide student))~~ assessments where the student has met or exceeded the

state standard under subsection (2) of this section. ~~((Students who meet the state standard on both end-of-course mathematics assessments are considered to have met the state standard for high school mathematics.))~~

(b) Students who meet or exceed the state standard ((in both reading and writing)) on the English language arts statewide student assessment are eligible for enrollment in advanced courses in English, social studies, humanities, and other related subjects.

(c) Students who meet or exceed the state standard on the mathematics statewide student assessment are eligible for enrollment in advanced courses in mathematics.

(d) Beginning in the 2021-22 school year, students who meet or exceed the state standard on the Washington comprehensive assessment of science are eligible for enrollment in advanced courses in science.

(4)(a) Students who successfully complete an advanced course in accordance with subsection (3) of this section are then enrolled in the next most rigorous level of advanced course that aligns with the student's high school and beyond plan.

(b) Students who successfully complete the advanced course in accordance with this subsection are then enrolled in the next most rigorous level of advanced course with the objective that students will eventually be automatically enrolled in courses that offer the opportunity to earn dual credit for high school and college.

(5) The district must notify students and parents or guardians regarding the academic acceleration policy and the advanced courses or programs available to students, including dual credit courses or programs.

~~((+))~~ (6) The district must provide a parent or guardian of a high school student with an opportunity to opt the student out of the academic acceleration policy and enroll ~~((a))~~ the student in an alternative course or program that aligns with the student's high school and beyond plan goals.

NEW SECTION. Sec. 503. RCW 28A.655.066 (Statewide end-of-course assessments for high school mathematics) and 2013 2nd sp.s. c 22 s 3, 2011 c 25 s 2, 2009 c 310 s 3, & 2008 c 163 s 3 are each repealed.

NEW SECTION. Sec. 504. A new section is added to chapter 28A.230 RCW 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 counselors 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) Comply with state and federal requirements for student privacy;

(e) 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

(f) 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) The office of the superintendent of public instruction may adopt and revise rules as necessary to implement this section.

NEW SECTION. Sec. 505. Section 102 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 May 15, 2019.

NEW SECTION. Sec. 506. Section 203 of this act takes effect August 31, 2022.

Passed by the House April 22, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 253

[Substitute House Bill 1075]

INSURANCE--CHANGE OF INSURER--OFFSET OF EXPENSES OF GROUP POLICYHOLDER

AN ACT Relating to consumer competitive group insurance; amending RCW 48.30.140 and 48.30.150; and providing an effective date.

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

Sec. 1. RCW 48.30.140 and 2015 c 272 s 1 are each amended to read as follows:

(1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, insurance producer, or title insurance agent shall, as an inducement to insurance, or after insurance has been effected, directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any

other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.

(2) Subsection (1) of this section shall not apply as to commissions paid to a licensed insurance producer, or title insurance agent for insurance placed on that person's own property or risks.

(3) This section shall not apply to the allowance by any marine insurer, or marine insurance producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the insurance producer's commission.

(4) This section shall not apply to advertising or promotional programs conducted by insurers or insurance producers whereby prizes, goods, wares, gift cards, gift certificates, or merchandise, not exceeding one hundred dollars in value per person in the aggregate in any twelve-month period, are given to all insureds or prospective insureds under similar qualifying circumstances. This subsection does not apply to title insurers or title insurance agents.

(5) This section does not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW 48.17.270.

(6)(a) Subsection (1) of this section shall not be construed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract containing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(7) Subsection (1) of this section does not apply to a payment by an insurer to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another. Insurers shall describe any such payment in the group insurance policy or in an applicable filing with the commissioner. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW 48.14.020 and 48.14.0201. This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter 48.66 RCW.

(8) Subsection (7) of this section does not apply to small groups as defined in RCW 48.43.005.

Sec. 2. RCW 48.30.150 and 2015 c 272 s 2 are each amended to read as follows:

(1) No insurer, insurance producer, title insurance agent, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, or sell, buy, or offer or promise to buy or give, or promise, or allow to, or on behalf of, the insured or prospective insured in any manner whatsoever:

(a) Any shares of stock or other securities issued or at any time to be issued on any interest therein or rights thereto; or

(b) Any special advisory board contract, or other contract, agreement, or understanding of any kind, offering, providing for, or promising any profits or special returns or special dividends; or

(c) Any prizes, goods, wares, gift cards, gift certificates, or merchandise of an aggregate value in excess of one hundred dollars per person in the aggregate in any consecutive twelve-month period. This subsection (1)(c) does not apply to title insurers or title insurance agents.

(2) Subsection (1) of this section shall not be deemed to prohibit the sale or purchase of securities as a condition to or in connection with surety insurance insuring the performance of an obligation as part of a plan of financing found by the commissioner to be designed and operated in good faith primarily for the purpose of such financing, nor shall it be deemed to prohibit the sale of redeemable securities of a registered investment company in the same transaction in which life insurance is sold.

(3)(a) Subsection (1) of this section shall not be deemed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract providing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(4) Subsection (1) of this section does not prohibit an insurer from issuing any payment to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another as provided in RCW 48.30.140. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW 48.14.020 and 48.14.0201. This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter 48.66 RCW.

(5) Subsection (4) of this section does not apply to small groups as defined in RCW 48.43.005.

NEW SECTION, Sec. 3. This act takes effect July 1, 2020.

Passed by the House April 22, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 254

[Substitute House Bill 1083]

SALE OF CITY PROPERTY USED FOR OFF-STREET PARKING

AN ACT Relating to providing greater certainty in association with selling city-owned property used for off-street parking; and amending RCW 35.86.030.

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

Sec. 1. RCW 35.86.030 and 1965 c 7 s 35.86.030 are each amended to read as follows:

(1) Such cities are authorized to obtain by lease, purchase, donation and/or gift, or by eminent domain in the manner provided by law for the exercise of this power by cities, such real property for off-street parking as the legislative bodies thereof determine to be necessary by ordinance.

(2) Such property or any fraction or fractions thereof may be sold, transferred, exchanged, leased, or otherwise disposed of by the city when one or more of the following conditions have been satisfied:

(a) When its legislative body has determined by ordinance such property or fraction or fractions thereof is no longer necessary for off-street parking purposes;

(b) When all bonds or financing contracts issued for the acquisition or construction have been paid in full. The proceeds from the sale, transfer, exchange, or lease of the property may be applied to the remaining balance of the bonds or financing contract in order to satisfy the requirement that the property bonds or financing contract be paid in full; or

(c) When the properties within any local improvement district created for the acquisition or construction of the off-street parking facilities are no longer subject to any assessment for such purpose.

(3) If the legislative body determines that all or a portion of the property that is being disposed of in accordance with subsection (2) of this section was acquired through condemnation or eminent domain, the former owner has the right to repurchase as described in this subsection. For the purposes of this subsection, "former owner" means the person or entity from whom the legislative body acquired title. At least ninety days prior to the date on which the property is intended to be sold by the legislative body, the legislative body must mail notice of the planned sale to the former owner of the property at the former owner's last known address or to a forwarding address if that owner has provided the legislative body with a forwarding address. If the former owner of the property's last known address, or forwarding address if the forwarding address has been provided, is no longer the former owner of the property's address, the right of repurchase is extinguished. If the former owner notifies the legislative body within thirty days of the date of the notice that the former owner intends to repurchase the property, the legislative body shall proceed with the sale of the property to the former owner for fair market value and shall not list the property for sale to other owners. If the former owner does not provide timely written notice to the legislative body of the intent to exercise a repurchase right, or if the sale to the former owner is not completed within six months of the date of notice that the former owner intends to repurchase the property, the right of repurchase is extinguished.

Passed by the House April 24, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 255

[Engrossed Second Substitute House Bill 1114]

FOOD WASTE REDUCTION

AN ACT Relating to reducing the wasting of food in order to fight hunger and reduce environmental impacts; amending RCW 70.93.180 and 70.95.090; adding a new section to chapter 70.95 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 the wasting of food represents a misuse of resources, including the water, land, energy, labor, and capital that go into growing, harvesting, processing, transporting, and retailing food for human consumption. Wasting edible food occurs all along the food production supply chain, and reducing the waste of edible food is a goal that can be achieved only with the collective efforts of growers, processors, distributors, retailers, consumers of food, and food bankers and related charities. Inedible food waste can be managed in ways that reduce negative environmental impacts and provide beneficial results to the land, air, soil, and energy infrastructure. Efforts to reduce the waste of food and expand the diversion of food waste to beneficial end uses will also require the mindful support of government policies that shape the behavior and waste reduction opportunities of each of those participants in the food supply chain.

(2) Every year, American consumers, businesses, and farms spend billions of dollars growing, processing, transporting, and disposing of food that is never eaten. That represents tens of millions of tons of food sent to landfills annually, plus millions of tons more that are discarded or left unharvested on farms. Worldwide, the United Nations food and agriculture organization has estimated that if one-fourth of the food lost or wasted globally could be saved, it would be enough to feed eight hundred seventy million hungry people. Meanwhile, one in eight Americans is food insecure, including one in six children. Recent data from the department of ecology indicate that Washington is not immune to food waste problems, and recent estimates indicate that seventeen percent of all garbage sent to Washington disposal facilities is food waste, including eight percent that is food that was determined to be edible at the time of disposal. In recognition of the widespread benefits that would accrue from reductions in food waste, in 2015, the administrator of the United States environmental protection agency and the secretary of the United States department of agriculture announced a national goal of reducing food waste by fifty percent by 2030. The Pacific Coast collaborative recently agreed to a similar commitment of halving food waste by 2030, including efforts to prevent, rescue, and recover wasted food.

(3) By establishing state wasted food reduction goals and developing a state wasted food reduction strategy, it is the intent of the legislature to continue its national leadership in solid waste reduction efforts by:

(a) Improving efficiencies in the food production and distribution system in order to reduce the cradle to grave greenhouse gas emissions associated with wasted food;

(b) Fighting hunger by more efficiently diverting surplus food to feed hungry individuals and families in need; and

(c) Supporting expansion of management facilities for inedible food waste to improve access and facility performance while reducing the volumes of food that flow through those facilities.

NEW SECTION. Sec. 2. A new section is added to chapter 70.95 RCW to read as follows:

(1) A goal is established for the state to reduce by fifty percent the amount of food waste generated annually by 2030, relative to 2015 levels. A subset of this goal must include a prevention goal to reduce the amount of edible food that is wasted.

(2) The department may estimate 2015 levels of wasted food in Washington using any combination of solid waste reporting data obtained under this chapter and surveys and studies measuring wasted food and food waste in other jurisdictions. For the purposes of measuring progress towards the goal in subsection (1) of this section, the department must adopt standardized metrics and processes for measuring or estimating volumes of wasted food and food waste generated in the state.

(3) By October 1, 2020, the department, in consultation with the department of agriculture and the department of health, must develop and adopt a state wasted food reduction and food waste diversion plan designed to achieve the goal established in subsection (1) of this section.

(a) The wasted food reduction and food waste diversion plan must include strategies, in descending order of priority, to:

(i) Prevent and reduce the wasting of edible food by residents and businesses;

(ii) Help match and support the capacity for edible food that would otherwise be wasted with food banks and other distributors that will ensure the food reaches those who need it; and

(iii) Support productive uses of inedible food materials, including using it for animal feed, energy production through anaerobic digestion, or other commercial uses, and for off-site or on-site management systems including composting, vermicomposting, or other biological systems.

(b) The wasted food reduction and food waste diversion plan must be designed to:

(i) Recommend a regulatory environment that optimizes activities and processes to rescue safe, nutritious, edible food;

(ii) Recommend a funding environment in which stable, predictable resources are provided to wasted food prevention and rescue and food waste recovery activities in such a way as to allow the development of additional capacity and the use of new technologies;

(iii) Avoid placing burdensome regulations on the hunger relief system, and ensure that organizations involved in wasted food prevention and rescue, and food waste recovery, retain discretion to accept or reject donations of food when appropriate;

(iv) Provide state technical support to wasted food prevention and rescue and food waste recovery organizations;

(v) Support the development and distribution of equitable materials to support food waste and wasted food educational and programmatic efforts in K-12 schools, in collaboration with the office of the superintendent of public

instruction, and aligned with the Washington state science and social studies learning standards; and

(vi) Facilitate and encourage restaurants and other retail food establishments to safely donate food to food banks and food assistance programs through education and outreach to retail food establishment operators regarding safe food donation opportunities, practices, and benefits.

(c) The wasted food reduction and food waste diversion plan must include suggested best practices that local governments may incorporate into solid waste management plans developed under RCW 70.95.080.

(d) The department must solicit feedback from the public and interested stakeholders throughout the process of developing and adopting the wasted food reduction and food waste diversion plan. To assist with its food waste reduction plan development responsibilities, the department may designate a stakeholder advisory panel. If the department designates a stakeholder advisory panel, it must consist of local government health departments, local government solid waste departments, food banks, hunger-focused nonprofit organizations, waste-focused nonprofit organizations, K-12 public education, and food businesses or food business associations.

(e) The department must identify the sources of scientific, economic, or other technical information it relied upon in developing the plan required under this section, including peer-reviewed science.

(f) In conjunction with the development of the wasted food reduction and food waste diversion plan, the department and the departments of agriculture and health must consider recommending changes to state law, including changes to food quality, labeling, and inspection requirements under chapter 69.80 RCW and any changes in laws relating to the donation of food waste or wasted food for animals, in order to achieve the goal established in subsection (1) of this section. Any such recommendations must be explained via a report to the legislature submitted consistent with RCW 43.01.036 by December 1, 2020. Prior to any implementation of the plan, for the activities, programs, or policies in the plan that would impose new obligations on state agencies, local governments, businesses, or citizens, the December 1, 2020, report must outline the plan for making regulatory changes identified in the report. This outline must include the department or the appropriate state agency's plan to make recommendations for statutory or administrative rule changes identified. In combination with any identified statutory or administrative rule changes, the department or the appropriate state agency must include expected cost estimates for both government entities and private persons or businesses to comply with any recommended changes.

(4) In support of the development of the plan in subsection (3) of this section, the department of commerce must contract for an independent evaluation of the state's food waste and wasted food management system.

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

(a)(i) "Food waste" means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, and similar materials that results from the storage, preparation, cooking, handling, selling, or serving of food for human consumption.

(ii) "Food waste" includes, but is not limited to, excess, spoiled, or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. "Food waste" does not include dead animals not intended for human consumption or animal excrement.

(b) "Prevention" refers to avoiding the wasting of food in the first place and represents the greatest potential for cost savings and environmental benefits for businesses, governments, and consumers.

(c) "Recovery" refers to processing inedible food waste to extract value from it, through composting, anaerobic digestion, or for use as animal feedstock.

(d) "Rescue" refers to the redistribution of surplus edible food to other users.

(e) "Wasted food" means the edible portion of food waste.

Sec. 3. RCW 70.93.180 and 2015 c 15 s 3 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Fifty percent to the department of ecology, for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for use in litter collection programs, to be distributed under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide; for statewide public awareness programs under RCW 70.93.200(7); and to support employment of youth in litter cleanup as intended in RCW 70.93.020, and for litter pick up using other authorized agencies. The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, recycling, and composting so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department for local government funding programs for waste reduction, litter control, recycling activities, and composting activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; (ii) any unspent funds under (b)(i) of this subsection may be used to create and pay for a matching fund competitive grant program to be used by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, recycling, and composting of primarily the products taxed under chapter 82.19 RCW. Recipients under this subsection include programs to reduce wasted food and food waste that are designed to achieve the goals established in section 2(1) of this act and that are consistent with the plan developed in section 2(3) of this act. Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the

availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; and

(c) Thirty percent to the department of ecology to: (i) Implement activities under RCW 70.93.200 for waste reduction, recycling, and composting efforts; (ii) provide technical assistance to local governments for commercial business and residential recycling programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste reduction, litter control, and recyclable and compostable products and programs; ~~((and))~~ (iii) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques; and (iv) for programs to reduce wasted food and food waste that are designed to achieve the goals established in section 2(1) of this act and that are consistent with the plan developed in section 2(3) of this act.

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, recycling, and composting programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of recycling, composting, and litter collection, reduction, and control programs.

Sec. 4. RCW 70.95.090 and 1991 c 298 s 3 are each amended to read as follows:

Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies, which may include strategies to reduce wasted food and food waste that are designed to achieve the goals established in section 2(1) of this act and that are consistent with the plan developed in section 2(3) of this act;

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste and food waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted yard waste and food waste within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction and recycling;

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70.95.165.

Passed by the House April 18, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 256

[Engrossed Substitute House Bill 1130]

PUBLIC SCHOOL LANGUAGE ACCESS

AN ACT Relating to language access in public schools; adding a new section to chapter 28A.630 RCW; adding a new section to chapter 28A.155 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. The legislature finds that:

(1) It is the policy of the state to welcome and encourage the presence of diverse cultures and the use of diverse languages and modalities of communication in business, government, and private affairs in this state;

(2) Washington public schools' ability to effectively communicate with students and their family members who have language access barriers impacts the schools' ability to engage students and families effectively in the education process and contributes to inequalities and increased gaps in student achievement;

(3) Effective communication is not taking place for a variety of reasons, including: (a) Some school districts do not consistently assess the language needs of their communities or consistently evaluate the effectiveness of their language access services; (b) resources, including time and money, are often not prioritized to engage families with language access barriers; and even when language access is a priority, some districts do not know the best practices for engaging families with language access barriers; (c) school staff are often not trained on how to engage families with language access barriers, how to engage and use interpreters, or when to provide translated documents; and (d) there are not enough interpreters qualified to work in educational settings; and

(4) Providing meaningful, equitable access to students and their family members who have language access barriers will not only help schools meet their civil rights obligations, but will help students meet the state's basic education goals under RCW 28A.150.210 resulting in a decrease in the educational opportunity gap between learners with language access barriers and other students, because student outcomes improve when families are engaged in the student's education.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.630 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction and the office of the education ombuds must jointly convene a work group to improve meaningful, equitable access for public school students and their family members who have language access barriers.

(2) The work group must advise the office of the superintendent of public instruction and the Washington state school directors' association on the following topics:

(a) The elements of an effective language access program for systemic family engagement and a plan for the implementation of this program;

(b) The components of a technical assistance program for language access and a plan for the implementation of this program;

(c) The development and sharing of a tool kit to help public schools:

(i) Assess the language needs of their communities; and

(ii) Develop, implement, and evaluate their language access plans and language services;

(d) The development and sharing of educational terminology glossaries that improve all families' access to the public school system; and

(e) The development and sharing of best practices or strategies for improving meaningful, equitable access for public school students and their family members who have language access barriers, including effective use of interpreters and when to provide translated documents in other formats.

(3) The work group must develop recommendations for practices and policies that should be adopted at the state or local level to improve meaningful, equitable access for public school students and their family members who have language access barriers, including recommendations on the following topics:

(a) Standards for interpreters working in education settings, including familiarity with legal concepts related to, and service requirements of, Part B of the federal individuals with disabilities education improvement act and section 504 of the federal rehabilitation act of 1973;

(b) Development and assessment of interpreters' knowledge of education terminology;

(c) The feasibility and cost-effectiveness of adapting another state agency's interpreter program to test, train, or both, interpreters for educational purposes;

(d) Updates to the Washington state school directors' association's model language access policy;

(e) Use of remote interpreter services, including the conditions under which remote interpreter services may be used to provide high quality interpreter services; and

(f) Data collection and use necessary to create and improve state and local language access programs.

(4) The office of the superintendent of public instruction and the office of the education ombuds must select up to twenty-five work group members who:

(a) Are geographically diverse and represent people with a variety of language access barriers; and

(b) Represent the following groups: The educational opportunity gap oversight and accountability committee; the state school for the blind; the childhood center for deafness and hearing loss; the special education advisory council at the office of the superintendent of public instruction; the Washington state school directors' association; a state association of teachers; a state association of principals; a state association of parents; the Washington state commissions on African-American affairs, Asian Pacific American affairs, and Hispanic affairs; the governor's office of Indian affairs; interpreters working in education settings; interpreter unions; families with language access barriers; and community-based organizations supporting families with language access barriers.

(5) The office of the superintendent of public instruction and the office of the education ombuds must provide staff support to the work group.

(6) The work group may form subcommittees and consult with necessary experts.

(7) By October 1, 2020, and in compliance with RCW 43.01.036, the work group must report its findings and recommendations to the appropriate committees of the legislature.

(8) This section expires December 31, 2020.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.155 RCW to read as follows:

(1) Beginning in the 2019-20 school year, school districts must document the language in which families of special education students prefer to communicate and whether a qualified interpreter for the student's family was provided at any planning meeting related to a student's individualized education program or plan developed under section 504 of the rehabilitation act of 1973 and meetings related to school discipline and truancy.

(2) For the purposes of this section, "qualified interpreter" means someone who is able to interpret effectively, accurately, and impartially, both receptively and expressively using any necessary specialized vocabulary.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 257

[House Bill 1133]

REGISTERED APIARISTS--LIMITATION OF LIABILITY

AN ACT Relating to limiting liability for registered apiarists; and adding a new section to chapter 15.60 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 15.60 RCW to read as follows:

A person who owns or operates an apiary, is a registered apiarist under RCW 15.60.021, and conforms to all applicable city, town, or county ordinances regarding beekeeping, is not liable for any civil damages for acts or omissions in connection with the keeping and maintaining of bees, bee equipment, queen breeding equipment, apiaries, and appliances, unless such acts or omissions constitute gross negligence or willful misconduct.

Passed by the House April 22, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 258

[House Bill 1149]

SEXUAL ASSAULT PROTECTION ORDERS--AFFIDAVIT CONTENTS

AN ACT Relating to clarifying requirements to obtain a sexual assault protection order; amending RCW 7.90.020; 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 Washington supreme court's decision in *Roake v. Delman*, 189 Wn.2d 775 (2018), does not reflect the legislature's intent regarding requirements for obtaining a civil sexual assault protection order pursuant to chapter 7.90 RCW. The legislature intends to respond to this decision by clarifying that a petitioner who seeks a sexual assault protection order is not required to separately allege or prove that the petitioner has a reasonable fear of future dangerous acts by the respondent, in addition to alleging and proving that the petitioner was sexually assaulted by the respondent. The legislature agrees with the dissenting opinion's view in *Roake v. Delman* that "experiencing a sexual assault is itself a reasonable basis for ongoing fear."

Sec. 2. RCW 7.90.020 and 2007 c 55 s 1 are each amended to read as follows:

There shall exist an action known as a petition for a sexual assault protection order.

(1) A petition for relief shall allege the existence of nonconsensual sexual conduct or nonconsensual sexual penetration, and shall be accompanied by an affidavit made under oath stating the specific (~~statements or actions made at the same time of the sexual assault or subsequently thereafter, which give rise to a reasonable fear of future dangerous acts, for~~) facts and circumstances from which relief is sought. Petitioner and respondent shall disclose the existence of any other litigation or of any other restraining, protection, or no-contact orders between the parties.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(3) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 7.90.180 and

shall fill in and keep current specific program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) Forms and instructional brochures and the necessary number of certified copies shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section.

(6) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

Passed by the House February 20, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 259

[Substitute House Bill 1170]

FIRE SERVICE MOBILIZATION

AN ACT Relating to fire service mobilization; reenacting and amending RCW 43.43.960; repealing 2015 c 181 s 5 (uncodified); providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 43.43.960 and 2015 c 181 s 2 are each reenacted and amended to read as follows:

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

(1) "All risk resources" means those resources regularly provided by fire departments, fire districts, and regional fire protection service authorities required to respond to natural or man-made incidents, including but not limited to:

- (a) Wild land fires;
- (b) Landslides;
- (c) Earthquakes;
- (d) Floods; and
- (e) Contagious diseases.

(2) "Chief" means the chief of the Washington state patrol.

(3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(4) "Jurisdiction" means state, county, city, fire district, regional fire protection service authority, or port district units, or other units covered by this chapter.

(5) "Mobilization" means that all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide risk resources to either direct emergency incident assignments or to assignment in communities where resources are needed. ~~((Fire department))~~ All risk resources may not be mobilized to assist law enforcement with police activities during a civil protest or demonstration, or other exercise by the people of their constitutionally protected First Amendment rights, or other protected concerted activity, however, fire departments, fire districts, and regional fire protection service authorities are not restricted from providing medical care or aid and firefighting when mobilized for any purpose.

When mobilization is declared and authorized as provided in this chapter, all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(6) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

(7) "State fire marshal" means the director of fire protection in the Washington state patrol.

Sec. 2. 2015 c 181 s 5 (uncodified) is repealed.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

Passed by the House April 27, 2019.

Passed by the Senate April 27, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 260

[House Bill 1366]

**COMMUNITY FACILITIES DISTRICTS--SPECIAL ASSESSMENT TERM AND SEPA
EXEMPTION**

AN ACT Relating to removing disincentives to the creation of community facilities districts; amending RCW 36.145.110; and adding a new section to chapter 43.21C RCW.

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

Sec. 1. RCW 36.145.110 and 2010 c 7 s 502 are each amended to read as follows:

(1) The board of supervisors of a community facilities district may impose special assessments on property located inside the district and benefited by the facilities and improvements provided, or to be provided, by a district, whether the facilities and improvements are located inside or outside of the boundaries of the proposed district. The requirements and powers of a district relating to the formation, assessment, collection, foreclosure, and other powers of a special assessment district are as set forth in chapters 35.43, 35.44, 35.49, and 35.50 RCW, except where otherwise addressed under this chapter. In any case where the provisions of this chapter conflict with the requirements under any other chapter that applies to the formation, assessment, collection, foreclosure, or other powers of a special assessment district, the provisions of this chapter control.

(2) Except as otherwise expressly provided under this chapter, the special assessments imposed and collected on property within a district may not exceed the amount set forth in a petition or amended petition approved in accordance with this chapter.

(3) The term of the special assessment is limited to the lesser of (a) ~~((twenty eight))~~ thirty-five years or (b) ~~((two years less than))~~ the full term of any bonds issued by or on behalf of the district to which the assessments or other revenue of the district is specifically dedicated, pledged, or obligated.

(4) The computation of special assessments must follow the requirements of chapter 35.44 RCW, including the authority to use any method or combination of methods to compute assessments which may be deemed by the board of supervisors to fairly reflect the benefit to the properties being assessed. The method of assessment may utilize the supplemental authority granted under chapter 35.51 RCW. A petition meeting the requirements of RCW 36.145.020 may provide for the reduction or waiver of special assessments for low-income households as that term is defined in RCW 36.130.010.

(5) The board must set a date, time, and place for hearing any objections to the assessment roll, which hearing must occur no later than one hundred twenty days from final approval of formation of the district. Petitioners or representatives thereof serving on the board of supervisors must not participate in the determination of the special assessment roll or vote on the confirmation of that assessment roll. The restriction in this subsection does not apply to members of the board of supervisors appointed from among the qualified professionals that petitioners may nominate under RCW 36.145.020(1)(h).

(6) The procedures and requirements for assessments, hearings on the assessment roll, filing of objections to the assessment roll, and appeals from the decision of the board approving or rejecting the assessment roll, must be as set forth in RCW 35.44.010 through 35.44.020, 35.44.080 through 35.44.110, and 35.44.190 through 35.44.270.

(7) At the hearing on the assessment roll, and~~(;)~~ in no event later than thirty days after the day of the hearing, the board may adopt a resolution approving the assessment roll or may correct, revise, raise, lower, change, or modify the assessment roll or any part thereof, and provide the petitioner with a detailed explanation of the changes made by the board.

(8) If the assessment roll is revised by the board in any way, then, within thirty days of the board's decision, the petitioner(s) must unanimously make one of the following elections: (a) Rescind the petition; or (b) accept the changes made by the board, upon which occurrence the board must adopt a resolution approving the assessment roll as modified by the board.

(9) Reassessments, assessments on omitted property, and supplemental assessments are governed by the provisions set forth under chapter 35.44 RCW.

(10) Any assessment approved under the provisions of this chapter may be segregated upon a petition of one hundred percent of the owners of the property subject to the assessment to be segregated. The segregation must be made as nearly as possible on the same basis as the original assessment was levied and approved by the board. The board, in approving a petition for segregation and amendment of the assessment roll, must do so in a fashion such that the total of the segregated parts of the assessment equal the assessment before segregation. As to any property originally entered upon the roll the assessment upon which has not been raised, no objections to the approval of the petition for segregation, the resulting assessment, or the amended assessment roll may be considered by the jurisdiction in which the district is located, the board, or by any court on appeal. Assessments must be collected in districts pursuant to the district's previous assessment roll until the amendment to the assessment roll is finalized under this section.

(11) Except as provided under chapter 35.44 RCW, assessments may not be increased without the approval of one hundred percent of the property owners subject to the proposed increase.

(12) Special assessments must be collected by the district treasurer determined in accordance with RCW 36.145.140.

(13) A notice of any special assessment imposed under this chapter must be provided to the owner of the assessed property, not less than once per year, with the following appearing at the top of the page in at least fourteen point, bold font:

******NOTICE******

THIS PROPERTY IS SUBJECT TO THE ASSESSMENTS ITEMIZED BELOW AND APPROVED BY COMMUNITY FACILITIES DISTRICT # AS THE OWNER OR POTENTIAL BUYER OF THIS PROPERTY, YOU ARE, OR WOULD BE, RESPONSIBLE FOR PAYMENT OF THE AMOUNTS ITEMIZED BELOW.

PLEASE REFER TO RCW 36.145.110 OR CONTACT YOUR COUNTY AUDITOR FOR ADDITIONAL INFORMATION.

(14) The district treasurer responsible for collecting special assessments may account for the costs of handling the assessments and may collect a fee not to exceed the measurable costs incurred by the treasurer.

NEW SECTION. Sec. 2. A new section is added to chapter 43.21C RCW to read as follows:

The formation of a community facilities district under chapter 36.145 RCW is exempted from compliance with this chapter, unless such formation

constitutes a final agency decision to undertake construction of a structure or facility not otherwise exempt under state law or rule.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 261

[Engrossed Substitute House Bill 1379]

POLITICAL COMMITTEE CONTRIBUTION DISCLOSURES

AN ACT Relating to disclosure of contributions from political committees to other political committees; amending RCW 42.17A.320; adding a new section to chapter 42.17A 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 public has the right to know who is contributing to election campaigns in Washington state and that campaign finance disclosure deters corruption, increases public confidence in Washington state elections, raises the level of debate, and strengthens our representative democracy.

The legislature finds that campaign finance disclosure is overwhelmingly supported by the citizens of Washington state as evidenced by the two initiatives that largely established Washington's current system. Both passed with more than seventy-two percent of the popular vote, as well as winning margins in every county in the state.

One of the cornerstones of Washington state's campaign finance disclosure laws is the requirement that political advertisements disclose the sponsor and the sponsor's top five donors. Many political action committees have avoided this important transparency requirement by funneling money from political action committee to political action committee so the top five donors listed are deceptive political action committee names rather than the real donors. The legislature finds that this practice, sometimes called "gray money" or "donor washing," undermines the intent of Washington state's campaign finance laws and impairs the transparency required for fair elections and a healthy democracy.

Therefore, the legislature intends to close this disclosure loophole, increase transparency and accountability, raise the level of discourse, deter corruption, and strengthen confidence in the election process by prohibiting political committees from receiving an overwhelming majority of their funds from one or a combination of political committees.

NEW SECTION. Sec. 2. A new section is added to chapter 42.17A RCW to read as follows:

(1) For any requirement to include the top five contributors under RCW 42.17A.320 or any other provision of this chapter, the sponsor must identify the five persons or entities making the largest contributions to the sponsor in excess of the threshold aggregate value to be considered an independent expenditure in an election for public office under RCW 42.17A.005(29)(a)(iv) reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially to be published or otherwise presented to the public.

(2) If one or more of the top five contributors identified under subsection (1) of this section is a political committee, the top three contributors to each of those political committees during the same period must then be identified, and so on, until the individuals or entities other than political committees with the largest aggregate contributions to each political committee identified under subsection (1) of this section have also been identified. The sponsor must identify the three individuals or entities, not including political committees, who made the largest aggregate contributions to any political committee identified under subsection (1) of this section in excess of the threshold aggregate value to be considered an independent expenditure in an election for public office under RCW 42.17A.005(29)(a)(iv) reportable under this chapter during the same period, and the names of those individuals or entities must be displayed in the advertisement alongside the statement "Top Three Donors to PAC Contributors."

(3) Contributions to the sponsor or a political committee that are earmarked, tracked, and used for purposes other than the advertisement in question should not be counted in identifying the top five contributors under subsection (1) of this section or the top three contributors under subsection (2) of this section.

(4) The sponsor shall not be liable for a violation of this section that occurs because a contribution to any political committee identified under subsection (1) of this section has not been reported to the commission.

(5) The commission is authorized to adopt rules, as needed, to prevent ways to circumvent the purposes of the required disclosures in this section to inform voters about the individuals and entities sponsoring political advertisements.

Sec. 3. RCW 42.17A.320 and 2013 c 138 s 1 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication:

(a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)";

(b) If the sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons (~~or entities~~) making the largest contributions (~~(in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication)~~) as determined by section 2(1) of this act; and if necessary, 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 aggregated contributions as determined by section 2(2) of this act; and

(c) 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 full name of that individual or entity.

(3) The information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or 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 subsections (1) and (2) of this section.

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or 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: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons (~~or entities~~) making the largest aggregate contributions (~~in excess of seven hundred dollars reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially published or otherwise presented to the public~~) as determined by section 2(1) of this act; and if necessary, 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 as determined by section 2(2) of this act. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons (~~or entities~~) making the largest contributions (~~in excess of seven hundred dollars reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially published or otherwise presented to the public~~) as determined by section 2(1) of this act; and if necessary, 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 as determined by section 2(2) of this act. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political advertising costing one thousand dollars or more supporting or opposing ballot measures sponsored by a political committee must include the information on the (~~("Top Five Contributors" consistent with subsections (2), (4), and (5) of this section)~~) top five contributors and top three contributors, other than political committees, as required by section 2 of this act. A series of political advertising sponsored by the same political committee, each of which is under one thousand dollars, must include the (~~("Top Five Contributors" information required by this section)~~) top five contributors and top three contributors, other than political committees, as required by section 2 of this act once their cumulative value reaches one thousand dollars or more.

(7) Political yard signs are exempt from the requirements of this section that the sponsor's name and address, and (~~("Top Five Contributor" information)~~) the top five contributors and top three PAC contributors as required by section 2 of this act, be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(8) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Passed by the House April 22, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 262

[Substitute House Bill 1436]

SNOW BIKES--CONCURRENT REGISTRATION OF MOTORCYCLE

AN ACT Relating to snow bikes; reenacting and amending RCW 46.10.300; adding a new section to chapter 46.16A RCW; adding a new section to chapter 46.10 RCW; adding a new section to chapter 46.61 RCW; adding a new section to chapter 46.04 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 46.16A RCW to read as follows:

(1) It is the intent of the legislature to create a concurrent licensing process to allow the owner of a motorcycle to maintain concurrent but separate registrations for the vehicle, for use as a motorcycle and for use as a snow bike.

(2) The department shall allow the owner of a motorcycle to maintain concurrent licenses for the vehicle for use as a motorcycle and for use as a snow bike. When the vehicle is registered as a motorcycle, the terms of the registration are those under this chapter that apply to motorcycles, including applicable fees. When the vehicle is registered as a snow bike, the terms of the registration are

those under chapter 46.10 RCW that apply to snowmobiles, including applicable fees.

(3) The department shall establish a declaration subject to the requirements of RCW 9A.72.085, which must be submitted by the motorcycle owner when initially applying for a snowmobile registration under chapter 46.10 RCW for the use of the converted motorcycle as a snow bike. The declaration must include a statement signed by the owner that a motorcycle that had been previously converted to a snow bike must conform with all applicable federal motor vehicle safety standards and state standards while in use as a motorcycle upon public roads, streets, or highways. Once submitted by the motorcycle owner, the declaration is valid until the vehicle is sold or the title is otherwise transferred.

(4) The department may adopt rules to implement this section.

NEW SECTION. Sec. 2. A new section is added to chapter 46.10 RCW to read as follows:

The owner of a motorcycle may apply for a snowmobile registration as provided in section 1 of this act and under the terms of this chapter to use the motorcycle, when properly converted, as a snow bike for the purposes of this chapter.

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

A person may operate a motorcycle, that previously had been converted to a snow bike, upon a public road, street, or highway of this state if:

(1) The person files a motorcycle highway use declaration, as provided under section 1 of this act, with the department certifying conformance with all applicable federal motor vehicle safety standards and state standards while in use as a motorcycle upon public roads, streets, or highways;

(2) The person obtains a valid driver's license and motorcycle endorsement issued to Washington residents in compliance with chapter 46.20 RCW for a motorcycle; and

(3) The motorcycle conforms to all applicable federal motor vehicle safety standards and state standards.

NEW SECTION. Sec. 4. A new section is added to chapter 46.04 RCW to read as follows:

"Snow bike" means a motorcycle or off-road motorcycle that has been modified with a conversion kit to include (1) an endless belt tread or cleats or similar means for the purposes of propulsion on snow and (2) a ski or sled type runner for the purposes of steering.

Sec. 5. RCW 46.10.300 and 2010 c 161 s 225 are each reenacted and amended to read as follows:

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

(1) "All terrain vehicle" means any self-propelled vehicle other than a snowmobile, capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, and other natural terrain, including, but not limited to, four-wheel vehicles, amphibious vehicles, ground effect or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind; except any vehicle designed

primarily for travel on, over, or in the water, farm vehicles, or any military or law enforcement vehicles.

(2) "Commission" means the Washington state parks and recreation commission.

(3) "Committee" means the Washington state parks and recreation commission snowmobile advisory committee.

(4) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling snowmobiles or all terrain vehicles at wholesale or retail in this state.

(5) "Highway" means the entire width of the right-of-way of a primary and secondary state highway, including any portion of the interstate highway system.

(6) "Hunt" means any effort to kill, injure, capture, or disturb a wild animal or wild bird.

(7) "Public roadway" means the entire width of the right-of-way of any road or street designed and ordinarily used for travel or parking of motor vehicles, which is controlled by a public authority other than the Washington state department of transportation, and which is open as a matter of right to the general public for ordinary vehicular traffic.

(8) "Snowmobile" means both "snowmobile" as defined in RCW 46.04.546 and "snow bike" as defined in section 4 of this act.

NEW SECTION. Sec. 6. This act takes effect September 1, 2019.

Passed by the House April 25, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 263

[Engrossed Second Substitute House Bill 1517]

DOMESTIC VIOLENCE--VARIOUS PROVISIONS

AN ACT Relating to domestic violence; amending RCW 10.99.020, 26.50.020, 9.95.210, 10.99.050, 9.94A.500, 9.94A.660, 9.94A.662, 9.94A.664, 9.94A.704, 9.94A.722, 10.05.010, 10.05.015, 10.05.020, 10.05.030, 10.05.120, 10.05.140, 10.05.160, 26.50.035, 26.50.110, 26.50.160, and 36.28A.410; amending 2017 c 272 ss 7 and 8 (uncodified); reenacting and amending RCW 26.50.010 and 10.31.100; adding a new section to chapter 10.01 RCW; adding a new section to chapter 9.94A RCW; adding a new section to chapter 10.05 RCW; adding a new chapter to Title 26 RCW; creating new sections; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency.

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

PART I - LEGISLATIVE FINDINGS

NEW SECTION. Sec. 101. The legislature recognizes that domestic violence treatment has been the most common, and sometimes only, legal response in domestic violence cases. There is a growing concern about the "one size fits all" approach for domestic violence misdemeanors, felonies, and other cases. In 2012, the legislature directed the Washington state institute for public policy to update its analysis of the scientific literature on domestic violence treatment. The institute found traditional domestic violence treatment to be ineffective. Treatment needs to be differentiated and grounded in science, risk, and long-term evaluation. The institute's findings coincided with a wave of

federal, state, and local reports highlighting concerns with the efficacy of traditional domestic violence treatment. A new approach was needed to reduce recidivism by domestic violence offenders, provide both victims and offenders with meaningful answers about what works, and close critical safety gaps. Subsequently, the legislature directed the gender and justice commission to establish work groups and make recommendations to improve domestic violence treatment and risk assessments. The work group recommended establishing sentencing alternatives for domestic violence offenders, integrated systems response, and domestic violence risk assessments. During this time, the department of social and health services repealed the administrative codes for domestic violence treatment, and issued new codes grounded in a differentiated approach and evidence-based practice. There is no easy answer to what works to reduce domestic violence recidivism, and offenders often present with co-occurring substance abuse and mental health issues, but new administrative codes and work group recommendations reflect the best available evidence in how best to respond and treat domestic violence criminal offenders.

Improving rehabilitation and treatment of domestic violence offenders, and those offenders with co-occurring substance and mental health issues, is critical, given how often practitioners and courts use treatment as the primary, and sometimes only, intervention for domestic violence. Given the pervasiveness of domestic violence and because of the link between domestic violence and many community issues including violent recidivism, victims and offenders are owed effective treatment and courts need better tools. State studies have found domestic violence crimes to be the most predictive of future violent crime.

The legislature intends to modify sentencing alternatives and other sentencing practices to require use of a validated risk assessment tool and domestic violence treatment certified under the Washington Administrative Code. These new practices should be consistently used when criminal conduct is based on domestic violence behavioral problems.

PART II - DEFINITION OF DOMESTIC VIOLENCE

NEW SECTION. Sec. 201. The legislature intends to distinguish between intimate partner violence and other categories of domestic violence to facilitate discrete data analysis regarding domestic violence by judicial, criminal justice, and advocacy entities. The legislature does not intend for these modifications to definitions to substantively change the prosecution of, or penalties for, domestic violence, or the remedies available to potential petitioners under the current statutory scheme.

NEW SECTION. Sec. 202. A new section is added to chapter 10.01 RCW to read as follows:

Whenever a prosecutor, or the attorney general or assistants acting pursuant to RCW 10.01.190, institutes or conducts a criminal proceeding involving domestic violence as defined in RCW 10.99.020, the prosecutor, or attorney general or assistants, shall specify whether the victim and defendant are intimate partners or family or household members within the meaning of RCW 26.50.010.

Sec. 203. RCW 10.99.020 and 2004 c 18 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) "Agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(2) "Association" means the Washington association of sheriffs and police chiefs.

(3) "Family or household members" means (~~(spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren)~~ the same as in RCW 26.50.010.

(4) "Dating relationship" has the same meaning as in RCW 26.50.010.

(5) "Domestic violence" includes but is not limited to any of the following crimes when committed either by (a) one family or household member against another family or household member, or (b) one intimate partner against another intimate partner:

- ~~((a))~~ (i) Assault in the first degree (RCW 9A.36.011);
- ~~((b))~~ (ii) Assault in the second degree (RCW 9A.36.021);
- ~~((c))~~ (iii) Assault in the third degree (RCW 9A.36.031);
- ~~((d))~~ (iv) Assault in the fourth degree (RCW 9A.36.041);
- ~~((e))~~ (v) Drive-by shooting (RCW 9A.36.045);
- ~~((f))~~ (vi) Reckless endangerment (RCW 9A.36.050);
- ~~((g))~~ (vii) Coercion (RCW 9A.36.070);
- ~~((h))~~ (viii) Burglary in the first degree (RCW 9A.52.020);
- ~~((i))~~ (ix) Burglary in the second degree (RCW 9A.52.030);
- ~~((j))~~ (x) Criminal trespass in the first degree (RCW 9A.52.070);
- ~~((k))~~ (xi) Criminal trespass in the second degree (RCW 9A.52.080);
- ~~((l))~~ (xii) Malicious mischief in the first degree (RCW 9A.48.070);
- ~~((m))~~ (xiii) Malicious mischief in the second degree (RCW 9A.48.080);
- ~~((n))~~ (xiv) Malicious mischief in the third degree (RCW 9A.48.090);
- ~~((o))~~ (xv) Kidnapping in the first degree (RCW 9A.40.020);
- ~~((p))~~ (xvi) Kidnapping in the second degree (RCW 9A.40.030);
- ~~((q))~~ (xvii) Unlawful imprisonment (RCW 9A.40.040);
- ~~((r))~~ (xviii) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ~~((26.26.138))~~ 26.26B.050, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
- ~~((s))~~ (xix) Rape in the first degree (RCW 9A.44.040);
- ~~((t))~~ (xx) Rape in the second degree (RCW 9A.44.050);
- ~~((u))~~ (xxi) Residential burglary (RCW 9A.52.025);

~~((+))~~ (xxii) Stalking (RCW 9A.46.110); and
~~((+))~~ (xxiii) Interference with the reporting of domestic violence (RCW 9A.36.150).

(6) "Employee" means any person currently employed with an agency.

(7) "Intimate partners" means the same as in RCW 26.50.010.

(8) "Sworn employee" means a general authority Washington peace officer as defined in RCW 10.93.020, any person appointed under RCW 35.21.333, and any person appointed or elected to carry out the duties of the sheriff under chapter 36.28 RCW.

~~((8))~~ (9) "Victim" means a family or household member or an intimate partner who has been subjected to domestic violence.

Sec. 204. RCW 26.50.010 and 2015 c 287 s 8 are each reenacted and amended to read as follows:

As used in this chapter, the following terms shall have the meanings given them:

(1) "Court" includes the superior, district, and municipal courts of the state of Washington.

(2) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(3) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, ~~((between family or household members; (b)))~~ sexual assault ~~((of one family or household member by another;)),~~ or ~~((e))~~ stalking as defined in RCW 9A.46.110 of one intimate partner by another intimate partner; or (b) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault, or stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

(4) "Electronic monitoring" has the same meaning as in RCW 9.94A.030.

(5) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes but is not limited to clothing, cribs, bedding, documents, medications, and personal hygiene items.

(6) "Family or household members" means ~~((spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time;))~~; (a) Adult persons related by blood or marriage(;;); (b) adult persons who are presently residing together or who have resided together in the past(;; persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship;); and (c) persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(7) "Intimate partner" means: (a) Spouses, or domestic partners; (b) former spouses, or former domestic partners; (c) persons who have a child in common regardless of whether they have been married or have lived together at any time; (d) adult persons presently or previously residing together who have or have had

a dating relationship; (e) persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship; and (f) persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship.

(8) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

Sec. 205. RCW 26.50.020 and 2010 c 274 s 302 are each amended to read as follows:

(1)(a) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(b) Any person thirteen years of age or older may seek relief under this chapter by filing a petition with a court alleging that he or she has been the victim of violence in a dating relationship and the respondent is sixteen years of age or older.

(2)(a) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(b) A person under sixteen years of age who is seeking relief under subsection (1)(b) of this section is required to seek relief by a parent, guardian, guardian ad litem, or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) Any petition filed under this chapter must specify whether the victim and respondent of the alleged domestic violence are intimate partners or family or household members within the meaning of RCW 26.50.010.

(6) The courts defined in RCW 26.50.010(~~(4)~~) have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(~~(6)~~) (7) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an

action in the county or municipality of the previous or the new household or residence.

~~((7))~~ (8) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

~~((8))~~ (9) For the purposes of this section "next friend" means any competent individual, over eighteen years of age, chosen by the minor and who is capable of pursuing the minor's stated interest in the action.

PART III - CRIMINAL NO-CONTACT ORDERS

NEW SECTION. Sec. 301. (1) The legislature believes the existing language of RCW 10.99.050 has always authorized courts to issue domestic violence no-contact orders in adult and juvenile cases that last up to the adult statutory maximum in felony cases and up to the maximum period for which an adult sentence can be suspended or deferred in nonfelony cases. However, in *State v. Granath*, 200 Wn. App. 26, 401 P.3d 405 (2017), *aff'd*, 190 Wn.2d 548, 415 P.3d 1179 (2018), the court of appeals and supreme court recently interpreted this provision to limit domestic violence no-contact orders in nonfelony sentences to the duration of the defendant's conditions of sentence. The legislature finds that this interpretation inadequately protects victims of domestic violence. The legislature intends to clarify the trial courts' authority to issue no-contact orders that remain in place in adult and juvenile nonfelony cases for the maximum period of time that an adult sentence could be suspended, and in adult and juvenile felony cases for the adult statutory maximum.

(2) The legislature further finds that there is a discrepancy in which sentences for nonfelony domestic violence offenses can be suspended for up to five years in district and municipal courts, but only for up to two years in superior courts in most cases, creating inconsistent protection for victims. The legislature intends to rectify this discrepancy to allow nonfelony domestic violence sentences to be suspended for up to five years in all courts.

Sec. 302. RCW 9.95.210 and 2012 1st sp.s. c 6 s 10 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection in granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(b) For a defendant sentenced for a domestic violence offense, or under RCW 46.61.5055, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension continue upon such conditions and for such time as the court shall designate, not to exceed five years. The court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. Any time before entering an order terminating probation, the court may modify or revoke its order suspending the imposition or

execution of the sentence if the defendant violates or fails to carry out any of the conditions of the suspended sentence.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary for up to twelve months. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the

officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

(7) For purposes of this section, "domestic violence" means the same as in RCW 10.99.020.

Sec. 303. RCW 10.99.050 and 2000 c 119 s 20 are each amended to read as follows:

(1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

(2)(a) Willful violation of a court order issued under this section is punishable under RCW 26.50.110.

(b) The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 26.50 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.

(c) An order issued pursuant to this section in conjunction with a misdemeanor or gross misdemeanor sentence or juvenile disposition remains in effect for a fixed period of time determined by the court, which may not exceed five years from the date of sentencing or disposition.

(d) An order issued pursuant to this section in conjunction with a felony sentence or juvenile disposition remains in effect for a fixed period of time determined by the court, which may not exceed the adult maximum sentence established in RCW 9A.20.021.

(3) Whenever an order prohibiting contact is issued pursuant to 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.

(4) If an order prohibiting contact issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

PART IV - RISK ASSESSMENT

NEW SECTION. **Sec. 401.** A new section is added to chapter 9.94A RCW to read as follows:

(1) The Washington State University department of criminal justice shall develop a tool to be used in conjunction with the Washington one risk assessment that would specifically predict whether the offender will commit domestic violence in the future. The domestic violence tool may incorporate relevant court records into the prediction modeling, if practical within the resources allocated. The tool will be used by the department as part of the current risk, needs, and responsivity assessment process.

(2) The Washington State University department of criminal justice shall make the domestic violence risk assessment tool available for use by the department no later than July 1, 2020. Subject to funds appropriated for this specific purpose, the department shall start to implement the domestic violence risk assessment tool by July 1, 2020, and by July 1, 2021, the department shall use the domestic violence risk assessment tool when conducting a Washington one risk assessment for an offender with a current conviction where domestic violence was pleaded and proven.

(3) The harborview center for sexual assault and traumatic stress shall develop a training curriculum for domestic violence perpetrator treatment providers that incorporates evidence-based practices and treatment modalities consistent with the Washington Administrative Code provisions adopted by the department of social and health services. The harborview center for sexual assault and traumatic stress shall complete the training curriculum and make it available for provider training no later than June 30, 2020.

PART V - SENTENCING

Sec. 501. RCW 9.94A.500 and 2013 c 200 s 33 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW, a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense.

The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

Unless specifically waived by the court, the court shall order the department to complete a presentence investigation before imposing a drug offender sentencing alternative upon a defendant who has been convicted of a felony offense where domestic violence has been pleaded and proven.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

A criminal history summary relating to the defendant from the prosecuting authority or from a state, federal, or foreign governmental agency shall be prima facie evidence of the existence and validity of the convictions listed therein. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information and records related to mental health services, as described in RCW 71.05.445 and 70.02.250, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information and records relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information and records related to mental health services as authorized by RCW 71.05.445, 70.02.250, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

Sec. 502. RCW 9.94A.660 and 2016 sp.s. c 29 s 524 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The end of the standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a special drug offender sentencing alternative may be made by the court, the offender, or the state.

(3) If the sentencing court determines that the offender is eligible for an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under RCW 9.94A.662 or a residential chemical dependency treatment-based alternative under RCW 9.94A.664. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(4)(a) To assist the court in making its determination, the court may order the department to complete either or both a risk assessment report and a chemical dependency screening report as provided in RCW 9.94A.500.

(b) To assist the court in making its determination in domestic violence cases, the court shall order the department to complete a presentence investigation and a chemical dependency screening report as provided in RCW 9.94A.500, unless otherwise specifically waived by the court.

(5)(a) If the court is considering imposing a sentence under the residential chemical dependency treatment-based alternative, the court may order an examination of the offender by the department. The examination shall, at a minimum, address the following issues:

(i) Whether the offender suffers from drug addiction;

(ii) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(iii) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the department of (social

~~and health services))~~ health, and where applicable, whether effective domestic violence perpetrator treatment is available from a state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW; and

(iv) Whether the offender and the community will benefit from the use of the alternative.

(b) The examination report must contain:

(i) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(ii) Recommended crime-related prohibitions and affirmative conditions.

(6) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate. In addition, an offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances, or in cases of domestic violence for monitoring with global positioning system technology for compliance with a no-contact order.

(b) The department may impose conditions and sanctions as authorized in RCW 9.94A.704 and 9.94A.737.

(7)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(8) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.

(9) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(10) Costs of examinations and preparing treatment plans under a special drug offender sentencing alternative may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 71.24.580.

Sec. 503. RCW 9.94A.662 and 2009 c 389 s 4 are each amended to read as follows:

(1) A sentence for a prison-based special drug offender sentencing alternative shall include:

(a) A period of total confinement in a state facility for one-half the midpoint of the standard sentence range or twelve months, whichever is greater;

(b) One-half the midpoint of the standard sentence range as a term of community custody, which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services, and for co-occurring drug and domestic violence cases, must also include an appropriate domestic violence treatment program by a state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW;

(c) Crime-related prohibitions, including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.701 to be imposed upon the failure to complete or administrative termination from the special drug offender sentencing alternative program.

(2)(a) During incarceration in the state facility, offenders sentenced under this section shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The substance abuse treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections.

(b) When applicable for cases involving domestic violence, domestic violence treatment must be provided by a state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW during the term of community custody.

(3) If the department finds that conditions of community custody have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court.

(4) If an offender sentenced to the prison-based alternative under this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

Sec. 504. RCW 9.94A.664 and 2009 c 389 s 5 are each amended to read as follows:

(1) A sentence for a residential chemical dependency treatment-based alternative shall include a term of community custody equal to one-half the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months.

(2)(a) The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the examination report completed pursuant to RCW 9.94A.660.

(b) If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody, and within available resources, make domestic violence treatment services available to a domestic violence offender during the term of community custody.

(3)(a) If the court imposes a sentence under this section, the treatment provider must send the treatment plan to the court within thirty days of the offender's arrival to the residential chemical dependency treatment program and, when applicable, the domestic violence treatment program.

(b) Upon receipt of the plan, the court shall schedule a progress hearing during the period of (~~residential chemical dependency~~) treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody.

(c) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment.

(4) At a progress hearing or treatment termination hearing, the court may:

(a) Authorize the department to terminate the offender's community custody status on the expiration date determined under subsection (1) of this section;

(b) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(c) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

(5) If the court imposes a term of total confinement, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of total confinement and subsequent term of community custody.

PART VI - COMMUNITY CUSTODY AND REENTRY

Sec. 601. RCW 9.94A.704 and 2016 c 108 s 1 are each amended to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

- (a) Report as directed to a community corrections officer;
- (b) Remain within prescribed geographical boundaries;
- (c) Notify the community corrections officer of any change in the offender's address or employment;
- (d) Pay the supervision fee assessment; and
- (e) Disclose the fact of supervision to any mental health ~~((or))~~, chemical dependency, or domestic violence treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense or domestic violence, the department may:

(a) Require the offender to refrain from direct or indirect contact with the victim of the crime or immediate family member of the victim of the crime. If a victim or an immediate family member of a victim has requested that the offender not contact him or her after notice as provided in RCW 72.09.340, the department shall require the offender to refrain from contact with the requestor. Where the victim is a minor, the parent or guardian of the victim may make a request on the victim's behalf. This subsection is not intended to reduce the preexisting authority of the department to impose no-contact conditions regardless of the offender's crime and regardless of who is protected by the no-contact condition, where such condition is based on risk to community safety.

(b) Impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" has the same meaning as in RCW 9.94A.030.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department shall notify the offender in writing upon community custody intake of the department's violation process.

(9) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(10)(a) When an offender on community custody is under the authority of the board, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the offender's risk to community safety and may recommend affirmative conduct or electronic monitoring consistent with subsections (4) through (6) of this section.

(b) The board may impose conditions in addition to court-ordered conditions. The board must consider and may impose department-recommended conditions. The board must impose a condition requiring the offender to refrain from contact with the victim or immediate family member of the victim as provided in subsection (5)(a) of this section.

(c) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- (i) The crime of conviction;
- (ii) The offender's risk of reoffending;
- (iii) The safety of the community;
- (iv) The offender's risk of domestic violence reoffense.

(d) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

(11) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

Sec. 602. RCW 9.94A.722 and 2004 c 166 s 9 are each amended to read as follows:

When an offender receiving court-ordered mental health ~~((~~or~~))~~, chemical dependency, or domestic violence treatment or treatment ordered by the department of corrections presents for treatment from a mental health or chemical dependency treatment provider, the offender must disclose to the mental health ~~((~~or~~))~~, chemical dependency, or domestic violence treatment provider whether he or she is subject to supervision by the department of corrections. If an offender has received relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132, the offender must provide the mental health ~~((~~or~~))~~, chemical dependency, or domestic violence treatment provider with a copy of the order granting the relief.

PART VII - DEFERRED PROSECUTIONS

Sec. 701. RCW 10.05.010 and 2008 c 282 s 15 are each amended to read as follows:

(1) In a court of limited jurisdiction a person charged with a misdemeanor or gross misdemeanor may petition the court to be considered for a deferred prosecution program. The petition shall be filed with the court at least seven days before the date set for trial but, upon a written motion and affidavit establishing good cause for the delay and failure to comply with this section, the court may waive this requirement subject to the defendant's reimbursement to the court of the witness fees and expenses due for subpoenaed witnesses who have appeared on the date set for trial.

(2) A person charged with a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW, or a misdemeanor or gross misdemeanor domestic violence offense, shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020 ~~((or section 18 of this act. Such person shall not be eligible for a deferred prosecution program more than once; and cannot receive a deferred prosecution under both RCW 10.05.020 and section 18 of this act))~~. A person may not participate in a deferred prosecution program for a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW if he or she has participated in a deferred prosecution program for a prior traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW, and a person may not participate in a deferred prosecution program for a misdemeanor or gross misdemeanor domestic violence offense if he or she has participated in a deferred prosecution program for a prior domestic violence offense. Separate offenses committed more than seven days apart may not be consolidated in a single program.

(3) A person charged with a misdemeanor or a gross misdemeanor under chapter 9A.42 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020. Such person shall not be eligible for a deferred prosecution program more than once.

(4) A person is not eligible for a deferred prosecution program if the misdemeanor or gross misdemeanor domestic violence offense was originally charged as a felony offense in superior court.

Sec. 702. RCW 10.05.015 and 1985 c 352 s 5 are each amended to read as follows:

At the time of arraignment a person charged with a violation of RCW 46.61.502 or 46.61.504 or a misdemeanor or gross misdemeanor domestic violence offense may be given a statement by the court that explains the availability, operation, and effects of the deferred prosecution program.

Sec. 703. RCW 10.05.020 and 2016 sp.s. c 29 s 525 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by substance use disorders or mental problems or domestic violence behavior problems for which the person is in need of treatment and unless treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved substance use disorder treatment program as designated in chapter 71.24 RCW if the petition alleges a substance use disorder ~~((or))~~, by an approved mental health center if the petition alleges a mental problem, or by a state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW if the petition alleges a domestic violence behavior problem.

(2) In the case of a petitioner charged with a misdemeanor or gross misdemeanor under chapter 9A.42 RCW, the petitioner shall allege under oath in the petition that the petitioner is the natural or adoptive parent of the alleged victim; that the wrongful conduct charged is the result of parenting problems for

which the petitioner is in need of services; that the petitioner is in need of child welfare services under chapter 74.13 RCW to improve his or her parenting skills in order to better provide his or her child or children with the basic necessities of life; that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her minor children; that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children; and that the petitioner has cooperated with the department of social and health services to develop a plan to receive appropriate child welfare services; along with a statement that the person agrees to pay the cost of the services if he or she is financially able to do so. The petition shall also contain a case history and a written service plan from the department of social and health services.

(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges; (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction, ~~((or))~~ mental problems, or domestic violence behavior problems; or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.

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

Sec. 704. RCW 10.05.030 and 2016 sp.s. c 29 s 526 are each amended to read as follows:

The arraigning judge upon consideration of the petition and with the concurrence of the prosecuting attorney may continue the arraignment and refer such person for a diagnostic investigation and evaluation to:

(1) An approved substance use disorder treatment program as designated in chapter 71.24 RCW((;)) if the petition alleges a substance use disorder((;+to));

(2) An approved mental health center((;)) if the petition alleges a mental problem((;+or));

(3) The department of social and health services if the petition is brought under RCW 10.05.020(2); or

(4) An approved state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW if the petition alleges a domestic violence behavior problem.

Sec. 705. RCW 10.05.120 and 2003 c 220 s 1 are each amended to read as follows:

(1) Three years after receiving proof of successful completion of the two-year treatment program, and following proof to the court that the petitioner has complied with the conditions imposed by the court following successful completion of the two-year treatment program, but not before five years following entry of the order of deferred prosecution pursuant to a petition brought under RCW 10.05.020(1), the court shall dismiss the charges pending against the petitioner.

(2) When a deferred prosecution is ordered pursuant to a petition brought under RCW 10.05.020(2) and the court has received proof that the petitioner has successfully completed the child welfare service plan, or the plan has been terminated because the alleged victim has reached his or her majority and there are no other minor children in the home, the court shall dismiss the charges pending against the petitioner: PROVIDED, That in any case where the petitioner's parental rights have been terminated with regard to the alleged victim due to abuse or neglect that occurred during the pendency of the deferred prosecution, the termination shall be per se evidence that the petitioner did not successfully complete the child welfare service plan.

(3) When a deferred prosecution is ordered for a petition brought under RCW 10.05.020(1) involving a domestic violence behavior problem and the court has received proof that the petitioner has successfully completed the domestic violence treatment plan, the court shall dismiss the charges pending against the petitioner.

Sec. 706. RCW 10.05.140 and 2016 c 203 s 11 are each amended to read as follows:

(1) As a condition of granting a deferred prosecution petition, the court shall order that the petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall be established by the court at not less than that established by RCW 46.29.490. As a condition of granting a deferred prosecution petition on any alcohol-dependency based case, the court shall also order the installation of an ignition interlock under RCW 46.20.720. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720. As a condition of granting a deferred prosecution petition, the court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to,

attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

(2) As a condition of granting a deferred prosecution petition for a case involving a domestic violence behavior problem:

(a) The court shall order the petitioner not to possess firearms and order the petitioner to surrender firearms under RCW 9.41.800; and

(b) The court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. In addition, to help ensure continued sobriety and reduce the likelihood of reoffense in co-occurring domestic violence and substance abuse or mental health cases, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

Sec. 707. RCW 10.05.160 and 2010 c 269 s 11 are each amended to read as follows:

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

(1) Prior deferred prosecution has been granted to the defendant;

(2) For a present petition alleging a domestic violence behavior problem, a prior stipulated order of continuance has been granted to the defendant;

(3) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;

~~((3))~~ (4) Failure of the court to comply with the requirements of RCW 10.05.100;

~~((4))~~ (5) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment program;

~~((5))~~ (6) Failure of the court to order the installation of an ignition interlock or other device under RCW 10.05.140.

NEW SECTION. Sec. 708. A new section is added to chapter 10.05 RCW to read as follows:

A deferred prosecution program for domestic violence behavior, or domestic violence co-occurring with substance abuse or mental health, must include, but is not limited to, the following requirements:

(1) Completion of a risk assessment;

(2) Participation in the level of treatment recommended by the program as outlined in the current treatment plan;

(3) Compliance with the contract for treatment;

(4) Participation in any ancillary or co-occurring treatments that are determined to be necessary for the successful completion of the domestic

violence intervention treatment including, but not limited to, mental health or substance use treatment;

(5) Domestic violence intervention treatment within the purview of this section to be completed with a state-certified domestic violence intervention treatment program;

(6) Signature of the petitioner agreeing to the terms and conditions of the treatment program;

(7) Proof of compliance with any active order to surrender weapons issued in this program or related civil protection orders or no-contact orders.

PART VIII - DOMESTIC VIOLENCE WORK GROUPS

NEW SECTION. Sec. 801. In 2017 the legislature established two work groups managed by the Washington state supreme court gender and justice commission to study domestic violence treatment and domestic violence risk. The work groups successfully pulled together stakeholders from across the state and published two reports with groundbreaking recommendations. The legislature finds that there is a need to continue the work groups. The work groups shall review best practices for alternatives to mandatory arrest in cases of domestic violence, and the work groups shall monitor implementation of prior recommendations for the purpose of promoting effective strategies to reduce domestic violence homicides, serious injuries, and recidivism.

Sec. 802. 2017 c 272 s 7 (uncodified) is amended to read as follows:

(1) The administrative office of the courts shall, through the Washington state gender and justice commission of the supreme court, convene a work group to address the issue of domestic violence perpetrator treatment and the role of certified perpetrator treatment programs in holding domestic violence perpetrators accountable.

(2) The work group must include a representative for each of the following organizations or interests: Superior court judges, district court judges, municipal court judges, court probation officers, prosecuting attorneys, defense attorneys, civil legal aid attorneys, domestic violence victim advocates, domestic violence perpetrator treatment providers, the department of social and health services, the department of corrections, the Washington state institute for public policy, and the University of Washington evidence based practice institute. At least two domestic violence perpetrator treatment providers must be represented as members of the work group.

(3)(a) ~~For its initial report in 2018,~~ the work group shall: ~~((a))~~ (i) Review laws, regulations, and court and agency practices pertaining to domestic violence perpetrator treatment used in civil and criminal contexts, including criminal domestic violence felony and misdemeanor offenses, family law, child welfare, and protection orders; ~~((b))~~ (ii) consider the development of a universal diagnostic evaluation tool to be used by treatment providers and the department of corrections to assess the treatment needs of domestic violence perpetrators; and ~~((c))~~ (iii) develop recommendations on changes to existing laws, regulations, and court and agency practices to improve victim safety, decrease recidivism, advance treatment outcomes, and increase the courts' confidence in domestic violence perpetrator treatment.

~~((4))~~ (b) The work group shall report its recommendations to the affected entities and the appropriate committees of the legislature no later than June 30, 2018.

(4)(a) For its report in 2019, the work group shall:

(i) Provide guidance and additional recommendations with respect to how prior recommendations of the work group should be implemented for the purpose of promoting effective strategies to reduce domestic violence in Washington state;

(ii) Monitor, evaluate, and provide recommendations for the implementation of the newly established domestic violence treatment administrative codes;

(iii) Monitor, evaluate, and provide recommendations on the implementation and supervision of domestic violence sentencing alternatives in different counties to promote consistency; and

(iv) Provide recommendations on other items deemed appropriate by the work group.

(b) The work group shall report its recommendations to the affected entities and the appropriate committees of the legislature no later than June 30, 2020.

(5) The work group must operate within existing funds.

(6) This section expires June 30, ~~((2019))~~ 2021.

Sec. 803. 2017 c 272 s 8 (uncodified) is amended to read as follows:

~~(1) ((The legislature finds that Washington state has a serious problem with domestic violence offender recidivism and lethality. The Washington state institute for public policy studied domestic violence offenders finding not just high rates of domestic violence recidivism but among the highest rates of general criminal and violent recidivism. The Washington state coalition against domestic violence has issued fatality reviews of domestic violence homicides in Washington under chapter 43.235 RCW for over fifteen years. These fatality reviews demonstrate the significant impact of domestic violence on our communities as well as the barriers and high rates of lethality faced by victims. The legislature further notes there have been several high profile domestic violence homicides with multiple prior domestic violence incidents not accounted for in the legal response. Many jurisdictions nationally have encountered the same challenges as Washington and now utilize risk assessment as a best practice to assist in the response to domestic violence.))~~

The Washington domestic violence risk assessment work group is established to study how and when risk assessment can best be used to improve the response to domestic violence offenders and victims and find effective strategies to reduce domestic violence homicides, serious injuries, and recidivism that are a result of domestic violence incidents in Washington state.

(2)(a) The Washington state gender and justice commission, in collaboration with the Washington state coalition against domestic violence and the Washington State University criminal justice program, shall coordinate the work group and provide staff support.

(b) The work group must include a representative from each of the following organizations:

(i) The Washington state gender and justice commission;

(ii) The department of corrections;

(iii) The department of social and health services;

- (iv) The Washington association of sheriffs and police chiefs;
- (v) The superior court judges' association;
- (vi) The district and municipal court judges' association;
- (vii) The Washington state association of counties;
- (viii) The Washington association of prosecuting attorneys;
- (ix) The Washington defender association;
- (x) The Washington association of criminal defense lawyers;
- (xi) The Washington state association of cities;
- (xii) The Washington state coalition against domestic violence;
- (xiii) The Washington state office of civil legal aid; and
- (xiv) The family law section of the Washington state bar association.

(c) The work group must additionally include representation from:

- (i) Treatment providers;
- (ii) City law enforcement;
- (iii) County law enforcement;
- (iv) Court administrators; and
- (v) Domestic violence victims or family members of a victim.

(3) ~~(At a minimum,)~~ (a) For its initial report in 2018, the work group shall research, review, and make recommendations on the following:

~~((a))~~ (i) How to best develop and use risk assessment in domestic violence response utilizing available research and Washington state data;

~~((b))~~ (ii) Providing effective strategies for incorporating risk assessment in domestic violence response to reduce deaths, serious injuries, and recidivism due to domestic violence;

~~((c))~~ (iii) Promoting access to domestic violence risk assessment for advocates, police, prosecutors, corrections, and courts to improve domestic violence response;

~~((d))~~ (iv) Whether or how risk assessment could be used as an alternative to mandatory arrest in domestic violence;

~~((e))~~ (v) Whether or how risk assessment could be used in bail determinations in domestic violence cases, and in civil protection order hearings;

~~((f))~~ (vi) Whether or how offender risk, needs, and responsivity could be used in determining eligibility for diversion, sentencing alternatives, and treatment options;

~~((g))~~ (vii) Whether or how victim risk, needs, and responsivity could be used in improving domestic violence response;

~~((h))~~ (viii) Whether or how risk assessment can improve prosecution and encourage prosecutors to aggressively enforce domestic violence laws; and

~~((i))~~ (ix) Encouraging private sector collaboration.

~~((4))~~ (b) The work group shall compile its findings and recommendations into ~~(a final)~~ an initial report and provide its report to the appropriate committees of the legislature and governor by June 30, 2018.

(4)(a) For its report in 2019, the work group shall:

(i) Research, review, and make recommendations on whether laws mandating arrest in cases of domestic violence should be amended and whether alternative arrest statutes should incorporate domestic violence risk assessment in domestic violence response to improve the response to domestic violence, and what training for law enforcement would be needed to implement an alternative to mandatory arrest;

(ii) Research, review, and make recommendations on how prior recommendations of the work group should be implemented in order to promote effective strategies to reduce domestic violence in Washington state;

(iii) Monitor, evaluate, and provide recommendations on the development and use of the risk assessment tool under section 401 of this act; and

(iv) Provide recommendations on other items deemed appropriate by the work group.

(b) The work group shall compile its findings and recommendations into a final report and provide its report to the appropriate committees of the legislature and governor by June 30, 2020.

(5) The work group must operate within existing funds.

(6) This section expires June 30, ((2019)) 2021.

PART IX - UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS

NEW SECTION. Sec. 901. SHORT TITLE. This chapter may be cited as the uniform recognition and enforcement of Canadian domestic violence protection orders act.

NEW SECTION. Sec. 902. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Canadian domestic violence protection order" means a judgment or part of a judgment or order issued in a civil proceeding by a court of Canada under law of the issuing jurisdiction which relates to domestic violence and prohibits a respondent from:

(a) Being in physical proximity to a protected individual or following a protected individual;

(b) Directly or indirectly contacting or communicating with a protected individual or other individual described in the order;

(c) Being within a certain distance of a specified place or location associated with a protected individual; or

(d) Molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

(2) "Domestic protection order" means an injunction or other order issued by a tribunal which relates to domestic or family violence laws to prevent an individual from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with, or being in physical proximity to another individual.

(3) "Issuing court" means the court that issues a Canadian domestic violence protection order.

(4) "Law enforcement officer" means an individual authorized by law of this state other than this chapter to enforce a domestic protection order.

(5) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(6) "Protected individual" means an individual protected by a Canadian domestic violence protection order.

(7) "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.

(8) "Respondent" means an individual against whom a Canadian domestic violence protection order is issued.

(9) "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. The term includes a federally recognized Indian tribe.

(10) "Tribunal" means a court, agency, or other entity authorized by law of this state other than this chapter to establish, enforce, or modify a domestic protection order.

NEW SECTION. Sec. 903. ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER BY LAW ENFORCEMENT OFFICER. (1) If a law enforcement officer determines under subsection (2) or (3) of this section that there is probable cause to believe a valid Canadian domestic violence protection order exists and the order has been violated, the officer shall enforce the terms of the Canadian domestic violence protection order as if the terms were in an order of a tribunal. Presentation to a law enforcement officer of a certified copy of a Canadian domestic violence protection order is not required for enforcement.

(2) Presentation to a law enforcement officer of a record of a Canadian domestic violence protection order that identifies both a protected individual and a respondent and on its face is in effect constitutes probable cause to believe that a valid order exists.

(3) If a record of a Canadian domestic violence protection order is not presented as provided in subsection (2) of this section, a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic violence protection order exists.

(4) If a law enforcement officer determines that an otherwise valid Canadian domestic violence protection order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual. After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.

(5) If a law enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services.

NEW SECTION. Sec. 904. ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER BY TRIBUNAL. (1) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order on application of:

(a) A person authorized by law of this state other than this chapter to seek enforcement of a domestic protection order; or

(b) A respondent.

(2) In a proceeding under subsection (1) of this section, the tribunal shall follow the procedures of this state for enforcement of a domestic protection order. An order entered under this section is limited to the enforcement of the terms of the Canadian domestic violence protection order as defined in section 902 of this act.

(3) A Canadian domestic violence protection order is enforceable under this section if:

(a) The order identifies a protected individual and a respondent;

(b) The order is valid and in effect;

(c) The issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; and

(d) The order was issued after:

(i) The respondent was given reasonable notice and had an opportunity to be heard before the court issued the order; or

(ii) In the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.

(4) A Canadian domestic violence protection order valid on its face is prima facie evidence of its enforceability under this section.

(5) A claim that a Canadian domestic violence protection order does not comply with subsection (3) of this section is an affirmative defense in a proceeding seeking enforcement of the order. If the tribunal determines that the order is not enforceable, the tribunal shall issue an order that the Canadian domestic violence protection order is not enforceable under this section and section 903 of this act and may not be registered under section 905 of this act.

NEW SECTION. Sec. 905. REGISTRATION OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER. (1) A person entitled to protection who has a valid Canadian domestic violence protection order may file that order by presenting a certified, authenticated, or exemplified copy of the Canadian domestic violence protection order to a clerk of the court of a Washington court in which the person entitled to protection resides or to a clerk of the court of a Washington court where the person entitled to protection believes enforcement may be necessary. Any out-of-state department, agency, or court responsible for maintaining protection order records, may by facsimile or electronic transmission send a reproduction of the foreign protection order to the clerk of the court of Washington as long as it contains a facsimile or digital signature by any person authorized to make such transmission.

(2) On receipt of a certified copy of a Canadian domestic violence protection order, the clerk of the court shall register the order in accordance with this section.

(3) An individual registering a Canadian domestic violence protection order under this section shall file an affidavit stating that, to the best of the individual's knowledge, the order is valid and in effect.

(4) After a Canadian domestic violence protection order is registered under this section, the clerk of the court shall provide the individual registering the order a certified copy of the registered order.

(5) A Canadian domestic violence protection order registered under this section may be entered in a state or federal registry of protection orders in accordance with law.

(6) An inaccurate, expired, or unenforceable Canadian domestic violence protection order may be corrected or removed from the registry of protection orders maintained in this state in accordance with law of this state other than this chapter.

(7) A fee may not be charged for the registration of a Canadian domestic violence protection order under this section.

(8) Registration in this state or filing under law of this state other than this chapter of a Canadian domestic violence protection order is not required for its enforcement under this chapter.

NEW SECTION. Sec. 906. IMMUNITY. The state, state agency, local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity are immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a Canadian domestic violence protection order or the detention or arrest of an alleged violator of a Canadian domestic violence protection order if the act or omission was a good faith effort to comply with this chapter.

NEW SECTION. Sec. 907. OTHER REMEDIES. An individual who seeks a remedy under this chapter may seek other legal or equitable remedies.

NEW SECTION. Sec. 908. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 909. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. Sec. 910. TRANSITION. This chapter applies to a Canadian domestic violence protection order issued before, on, or after the effective date of this section and to a continuing action for enforcement of a Canadian domestic violence protection order commenced before, on, or after the effective date of this section. A request for enforcement of a Canadian domestic violence protection order made on or after the effective date of this section for a violation of the order occurring before, on, or after the effective date of this section is governed by this chapter.

Sec. 911. RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is

committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, or a Canadian domestic violence protection order, as defined in section 902 of this act, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order or the Canadian domestic violence protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order or the Canadian domestic violence protection order specifically indicates that a violation will be a crime; or

(c) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160~~((4))~~ (5) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital.

Sec. 912. RCW 26.50.035 and 2005 c 282 s 40 are each amended to read as follows:

(1) The administrative office of the courts shall develop and prepare instructions and informational brochures required under RCW 26.50.030(4), standard petition and order for protection forms, and a court staff handbook on domestic violence and the protection order process. The standard petition and order for protection forms must be used after September 1, 1994, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state domestic violence coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) The informational brochure shall describe the use of and the process for obtaining, modifying, and terminating a domestic violence protection order as provided under this chapter, an antiharassment no-contact order as provided under chapter 9A.46 RCW, a domestic violence no-contact order as provided under chapter 10.99 RCW, a restraining order as provided under chapters 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as provided by chapter 10.14 RCW, (~~and~~) a foreign protection order as defined in chapter 26.52 RCW, and a Canadian domestic violence protection order as defined in section 902 of this act.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a domestic violence program, defined in RCW 70.123.020, serving the county in which the court is located. The community resource list shall include the names and telephone numbers of domestic violence programs serving the community in which the court is located, including law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by January 1, 1997.

(6) The administrative office of the courts shall update the instructions, brochures, standard petition and order for protection forms, and court staff handbook when changes in the law make an update necessary.

Sec. 913. RCW 26.50.110 and 2017 c 230 s 9 are each amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection is granted under chapter 7.40

RCW pursuant to chapter 74.34 RCW, ~~((or))~~ there is a valid foreign protection order as defined in RCW 26.52.020, or there is a valid Canadian domestic violence protection order as defined in section 902 of this act, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order or a Canadian domestic violence protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court:

(i) May require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(ii) Shall impose a fine of fifteen dollars, in addition to any penalty or fine imposed, for a violation of a domestic violence protection order issued under this chapter. Revenue from the fifteen dollar fine must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, ~~((or))~~ a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or or))~~ a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in

section 902 of this act, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, (~~(or of)~~) a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, (~~(or of)~~) a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, (~~(or of)~~) a valid foreign protection order as defined in RCW 26.52.020 or a valid Canadian domestic violence protection order as defined in section 902 of this act. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, (~~(or of)~~) a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

Sec. 914. RCW 26.50.160 and 2017 3rd sp.s. c 6 s 335 are each amended to read as follows:

To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a database containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every sexual assault protection order issued under chapter 7.90 RCW, every criminal no-contact order issued under chapters 9A.46 and 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under chapter 26.10 RCW, every parentage action under chapter (~~26.26~~) 26.26A or 26.26B RCW, every restraining order issued on behalf of an abused child or adult dependent person under chapter 26.44 RCW, every foreign

protection order filed under chapter 26.52 RCW, every Canadian domestic violence protection order filed under chapter 26.-- RCW (the new chapter created in section 1001 of this act), and every order for protection of a vulnerable adult under chapter 74.34 RCW. When a guardian or the department of social and health services or department of children, youth, and families has petitioned for relief on behalf of an abused child, adult dependent person, or vulnerable adult, the name of the person on whose behalf relief was sought shall be included in the database as a party rather than the guardian or appropriate department;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee.

Sec. 915. RCW 36.28A.410 and 2017 c 261 s 5 are each amended to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, the Washington association of sheriffs and police chiefs shall create and operate a statewide automated protected person notification system to automatically notify a registered person via the registered person's choice of telephone or email when a respondent subject to a court order specified in (b) of this subsection has attempted to purchase or acquire a firearm and been denied based on a background check or completed and submitted firearm purchase or transfer application that indicates the respondent is ineligible to possess a firearm under state or federal law. The system must permit a person to register for notification, or a registered person to update the person's registration information, for the statewide automated protected person notification system by calling a toll-free telephone number or by accessing a public web site.

(b) The notification requirements of this section apply to any court order issued under chapter 7.92 RCW and RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130, 26.26.590~~) 26.26B.020, 26.50.060, or 26.50.070, (~~and~~) any foreign protection order filed with a Washington court pursuant to chapter 26.52 RCW, and any Canadian domestic violence protection order filed with a Washington court pursuant to chapter 26.-- RCW (the new chapter created in section 1001 of this act), where the order prohibits the respondent from possessing firearms or where by operation of law the respondent is ineligible to possess firearms during the term of the order. The notification requirements of this section apply even if the respondent has notified the Washington state patrol that he or she has appealed a background check denial under RCW 43.43.823.

(2) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to the statewide automated protected person notification system in this section, so long as the release or failure to release was without gross negligence. The immunity provided under this subsection applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(3) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs pursuant to chapter 261, Laws of 2017, including information a person submits to register and participate

in the statewide automated protected person notification system, are exempt from public inspection and copying under chapter 42.56 RCW.

PART X - MISCELLANEOUS

NEW SECTION. Sec. 1001. Sections 901 through 910 of this act constitute a new chapter in Title 26 RCW.

NEW SECTION. Sec. 1002. 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. 1003. Sections 901 through 915, 1001, and 1002 of this act take effect January 1, 2020.

NEW SECTION. Sec. 1004. Sections 501 through 504, 601, 602, and 701 through 708 of this act take effect January 1, 2021.

NEW SECTION. Sec. 1005. Sections 801 through 803 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 June 30, 2019.

NEW SECTION. Sec. 1006. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 264

[Second Substitute House Bill 1528]

SUBSTANCE USE DISORDER RECOVERY SUPPORT SERVICES--RECOVERY RESIDENCES

AN ACT Relating to recovery support services; reenacting and amending RCW 71.24.385; adding new sections to chapter 41.05 RCW; adding a new section to chapter 71.24 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 substance use disorder is a disease impacting the whole family and the whole society and requires a system of care that includes prevention, treatment, and recovery services that support and strengthen impacted individuals, families, and the community at large.

(2) The legislature further finds that access to quality recovery housing is crucial for helping individuals remain in recovery from substance use disorder beyond treatment. Furthermore, recovery housing serves to preserve the state's financial investment in a person's treatment. Without access to quality recovery housing, individuals are much less likely to recover from substance use disorder and more likely to face continued issues that impact their well-being, their families, and their communities. These issues include death by overdose or other substance use disorder-related medical complications; higher health care costs; high use of emergency departments and public health care systems; higher risk

for involvement with law enforcement and incarceration; and an inability to obtain and maintain employment. These challenges are compounded by an overall lack of affordable housing nationwide.

(3) The legislature recognizes that recovery is a long-term process and requires a comprehensive approach. Recognizing the potential for fraudulent and unethical recovery housing operators, this act is designed to address the quality of recovery housing in the state of Washington.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) The authority shall establish and maintain a registry of approved recovery residences. The authority may contract with a nationally recognized recovery residence certification organization based in Washington to establish and maintain the registry.

(2) The authority or the contracted entity described in subsection (1) of this section shall determine that a recovery residence is approved for inclusion in the registry if the recovery residence has been certified by a nationally recognized recovery residence certification organization based in Washington that is approved by the authority or if the recovery residence is a chapter of a national recovery residence organization with peer-run homes that is approved by the authority as meeting the following standards in its certification process:

(a) Peers are required to be involved in the governance of the recovery residence;

(b) Recovery support is integrated into the daily activities;

(c) The recovery residence must be maintained as a home-like environment that promotes healthy recovery;

(d) Resident activities are promoted within the recovery residence and in the community through work, education, community engagement, or other activities; and

(e) The recovery residence maintains an environment free from alcohol and illicit drugs.

(3) Nothing in this section requires that a recovery residence become certified by the certifying organization approved by the authority in subsection (2) of this section or be included in the registry, unless the recovery residence decides to participate in the recovery residence program activities established in this chapter.

(4) For the purposes of this section, "recovery residence" means a home-like environment that promotes healthy recovery from a substance use disorder and supports persons recovering from a substance use disorder through the use of peer recovery support.

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority shall contract with the nationally recognized recovery residence organization based in Washington that is approved by the authority in section 2 of this act to provide technical assistance to recovery residences actively seeking certification. The technical assistance shall include, but not be limited to:

(a) New manager training;

- (b) Assistance preparing facility operations documents and policies; and
 - (c) Support for working with residents on medication-assisted treatment.
- (2) This section expires July 1, 2025.

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

(1) The authority shall establish a revolving fund for loans to operators of new recovery residences or existing recovery residences actively seeking certification and registration under section 2 of this act. Approved uses of the funds include, but are not limited to:

- (a) Facility modifications necessary to achieve certification; and
 - (b) Operating start-up costs, including rent or mortgage payments, security deposits, salaries for on-site staff, and minimal maintenance costs.
- (2) This section expires July 1, 2025.

NEW SECTION. Sec. 5. A new section is added to chapter 71.24 RCW to read as follows:

Beginning January 1, 2023, a licensed or certified service provider may not refer a client who is appropriate for housing in a recovery residence, to support the client's recovery from a substance use disorder, to a recovery residence that is not included in the registry of approved recovery residences maintained by the authority under section 2 of this act. This section does not otherwise limit the discharge or referral options available for a person in recovery from a substance use disorder to any other appropriate placements or services.

Sec. 6. RCW 71.24.385 and 2018 c 201 s 4023 and 2018 c 175 s 6 are each reenacted and amended to read as follows:

(1) Within funds appropriated by the legislature for this purpose, behavioral health organizations shall develop the means to serve the needs of people:

(a) With mental disorders residing within the boundaries of their regional service area. Elements of the program may include:

- (i) Crisis diversion services;
- (ii) Evaluation and treatment and community hospital beds;
- (iii) Residential treatment;
- (iv) Programs for intensive community treatment;
- (v) Outpatient services, including family support;
- (vi) Peer support services;
- (vii) Community support services;
- (viii) Resource management services; and
- (ix) Supported housing and supported employment services.

(b) With substance use disorders and their families, people incapacitated by alcohol or other psychoactive chemicals, and intoxicated people.

(i) Elements of the program shall include, but not necessarily be limited to, a continuum of substance use disorder treatment services that includes:

- (A) Withdrawal management;
- (B) Residential treatment; and
- (C) Outpatient treatment.

(ii) The program may include peer support, supported housing, supported employment, crisis diversion, ~~((or))~~ recovery support services, or technology-based recovery supports.

(iii) The authority may contract for the use of an approved substance use disorder treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(2)(a) The behavioral health organization shall have the flexibility, within the funds appropriated by the legislature for this purpose and the terms of their contract, to design the mix of services that will be most effective within their service area of meeting the needs of people with behavioral health disorders and avoiding placement of such individuals at the state mental hospital. Behavioral health organizations are encouraged to maximize the use of evidence-based practices and alternative resources with the goal of substantially reducing and potentially eliminating the use of institutions for mental diseases.

(b) The behavioral health organization may allow reimbursement to providers for services delivered through a partial hospitalization or intensive outpatient program. Such payment and services are distinct from the state's delivery of wraparound with intensive services under the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and Porter*, settlement agreement.

(3)(a) Treatment provided under this chapter must be purchased primarily through managed care contracts.

(b) Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting.

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 265

[Engrossed Substitute House Bill 1569]

PRODUCT DEGRADABILITY--LABELING

AN ACT Relating to marketing the degradability of products; adding a new chapter to Title 70 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. (1) The legislature finds and declares that it is the public policy of the state that:

(a) Environmental marketing claims for plastic products, whether implicit or implied, should adhere to uniform and recognized standards for "compostability" and "biodegradability," since misleading, confusing, and deceptive labeling can negatively impact local composting programs and compost processors. Plastic products marketed as being "compostable" should be readily and easily identifiable as meeting these standards;

(b) Legitimate and responsible packaging and plastic product manufacturers are already properly labeling their compostable products, but many manufacturers are not. Not all compost facilities and their associated processing technologies accept or are required to accept compostable packaging as

feedstocks. However, implementing a standardized system and test methods may create the ability for them to take these products in the future.

(2) Therefore, it is the intent of the legislature to authorize the state's attorney general and local governments to pursue false or misleading environmental claims and "greenwashing" for plastic products claiming to be "compostable" or "biodegradable" when in fact they are not.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "ASTM" means the American society for testing and materials.

(2) "Biodegradable mulch film" means film plastic used as a technical tool in commercial farming applications that biodegrades in soil after being used, and:

(a) The film product fulfills plant growth and regulated metals requirements of ASTM D6400; and

(b)(i) Meets the requirements of Vincotte's "OK Biodegradable Soil" certification scheme, as that certification existed as of January 1, 2019;

(ii) At ambient temperatures and in soil, shows at least ninety percent biodegradation absolute or relative to microcrystalline cellulose in less than two years' time, tested according to ISO 17556 or ASTM 5988 standard test methods, as those test methods existed as of January 1, 2019; or

(iii) Meets the requirements of EN 17033 "plastics-biodegradable mulch films for use in agriculture and horticulture" as it existed on January 1, 2019.

(3) "Federal trade commission guides" means the United States federal trade commission's guides for the use of environmental marketing claims (Part 260, commencing at section 260.1), compostability claims, including section 260.8, and degradation claims (subchapter B of chapter I of Title 16 of the Code of Federal Regulations), as those guides existed as of January 1, 2019.

(4) "Film product" means a bag, sack, wrap, or other sheet film product.

(5) "Food service product" means a product including, but not limited to, containers, plates, bowls, cups, lids, meat trays, straws, deli rounds, cocktail picks, splash sticks, condiment packaging, clam shells and other hinged or lidded containers, sandwich wrap, utensils, sachets, portion cups, and other food service products that are intended for one-time use and used for food or drink offered for sale or use.

(6) "Manufacturer" means a person, firm, association, partnership, or corporation that produces a product.

(7) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(8) "Plastic food packaging and food service products" means food packaging and food service products that is composed of:

(a) Plastic; or

(b) Fiber or paper with a plastic coating, window, component, or additive.

(9) "Plastic product" means a product made of plastic, whether alone or in combination with another material including, but not limited to, paperboard. A plastic product includes, but is not limited to, any of the following:

(a) A product or part of a product that is used, bought, or leased for use by a person for any purpose;

(b) A package or a packaging component including, but not limited to, packaging peanuts;

(c) A film product; or

(d) Plastic food packaging and food service products.

(10) "Standard specification" means either:

(a) ASTM D6400 - standard specification labeling of plastics designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019; or

(b) ASTM D6868 - standard specification for labeling of end items that incorporate plastics and polymers as coatings or additives with paper and other substrates designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019.

(11)(a) "Supplier" means a person, firm, association, partnership, company, or corporation that sells, offers for sale, offers for promotional purposes, or takes title to a product.

(b) "Supplier" does not include a person, firm, association, partnership, company, or corporation that sells products to end users as a retailer.

(12) "Utensil" means a product designed to be used by a consumer to facilitate the consumption of food or beverages, including knives, forks, spoons, cocktail picks, chopsticks, splash sticks, and stirrers.

NEW SECTION. Sec. 3. (1) Except as provided in this chapter, no manufacturer or supplier may sell, offer for sale, or distribute for use in this state a plastic product that is labeled with the term "biodegradable," "degradable," "decomposable," "oxo-degradable," or any similar form of those terms, or in any way imply that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment.

(2) This section does not apply to biodegradable mulch film that meets the required testing and has the appropriate third-party certifications.

NEW SECTION. Sec. 4. (1)(a) A product labeled as "compostable" that is sold, offered for sale, or distributed for use in Washington by a supplier or manufacturer must:

(i) Meet ASTM standard specification D6400;

(ii) Meet ASTM standard specification D6868; or

(iii) Be comprised of wood, which includes renewable wood, or fiber-based substrate only;

(b) A product described in (a)(i) or (ii) of this subsection must:

(i) Meet labeling requirements established under the United States federal trade commission's guides; and

(ii) Feature labeling that:

(A) Meets industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities;

(B) Uses a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification; and

(C) Displays the word "compostable," where possible, indicating the product has been tested by a recognized third-party independent body and meets the ASTM standard specification.

(2) A compostable product described in subsection (1)(a)(i) or (ii) of this section must be considered compliant with the requirements of this section if it:

- (a) Has green or brown labeling;
- (b) Is labeled as compostable; and
- (c) Uses distinctive color schemes, green or brown color striping, or other adopted symbols, colors, marks, or design patterns that help differentiate compostable items from noncompostable materials.

NEW SECTION. Sec. 5. (1) A manufacturer or supplier of a film bag that meets ASTM standard specification D6400 and is distributed or sold by retailers must ensure that the film bag is readily and easily identifiable from other film bags in a manner that is consistent with the federal trade commission guides.

(2) For purposes of this section, "readily and easily identifiable" products must meet the following requirements:

(a) Be labeled with a certification logo indicating the bag meets the ASTM D6400 standard specification if the bag has been certified as meeting that standard by a recognized third-party independent verification body;

(b) Be labeled in accordance with one of the following:

(i) The bag is made of a uniform color of green or brown and labeled with the word "compostable" on one side of the bag and the label must be at least one inch in height; or

(ii) Be labeled with the word "compostable" on both sides of the bag and the label must be one of the following:

(A) Green or brown color lettering at least one inch in height; or

(B) Within a contrasting green or brown color band of at least one inch in height on both sides of the bag with color contrasting lettering of at least one-half inch in height;

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities.

(3) If a bag is smaller than fourteen inches by fourteen inches, the lettering and stripe required under subsection (2)(b)(ii) of this section must be in proportion to the size of the bag.

(4) A film bag that meets ASTM standard specification D6400 that is sold or distributed in this state may not display a chasing arrow resin identification code or recycling type of symbol in any form.

(5) A manufacturer or supplier is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides.

NEW SECTION. Sec. 6. (1)(a) A manufacturer or supplier of food service products or film products that meet ASTM standard specification D6400 or ASTM standard specification D6868 must ensure that the items are readily and easily identifiable from other plastic food service products or plastic film products in a manner that is consistent with the federal trade commission guides.

(b) Film bags are exempt from the requirements of this section, and are instead subject to the requirements of section 5 of this act.

(2) For the purposes of this section, "readily and easily identifiable" products must:

(a) Be labeled with a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification;

(b) Be labeled with the word "compostable," where possible, indicating the food packaging or film product has been tested by a recognized third-party independent body and meets the ASTM standard specification; and

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities.

(3) A compostable product described in subsection (1) of this section must be considered compliant with the requirements of this section if it:

(a) Has green or brown labeling;

(b) Is labeled as compostable; and

(c) Uses distinctive color schemes, green or brown color striping, or other adopted symbols, colors, marks, or design patterns that help differentiate compostable items from noncompostable materials.

(4) It is encouraged that each product described in subsection (1) of this section:

(a) Display labeling language via printing, embossing, or compostable adhesive stickers using, when possible, either the colors green or brown that contrast with background product color for easy identification; or

(b) Be tinted green or brown.

(5) Graphic elements are encouraged to increase legibility of the word "compostable" and overall product distinction that may include text boxes, stripes, bands, or a green or brown tint of the product.

(6) A manufacturer or supplier is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides.

NEW SECTION. Sec. 7. A manufacturer or supplier of film products or food service products sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in sections 5 and 6 of this act is:

(1) Prohibited from using tinting, labeling, and terms that are required of products that meet the applicable ASTM standard specifications under sections 5 and 6 of this act;

(2) Discouraged from using coloration, labeling, images, and terms that confuse consumers into believing that noncompostable bags and food service packaging are compostable; and

(3) Encouraged to use coloration, labeling, images, and terms to help consumers identify noncompostable bags and food service packaging as either:

(a) Suitable for recycling; or (b) necessary to dispose as waste.

NEW SECTION. Sec. 8. (1) Upon the request by a person, a manufacturer or supplier shall submit to that person, within ninety days of the request, nonconfidential business information and documentation demonstrating compliance with this chapter, in a format that is easy to understand and scientifically accurate.

(2) Upon request by a commercial compost processing facility, manufacturers of compostable products are encouraged to provide the facility with information regarding the technical aspects of a commercial composting

environment, such as heat or moisture, in which the manufacturer's product has been field tested and found to degrade.

NEW SECTION. Sec. 9. (1) The state, acting through the attorney general, and cities and counties have concurrent authority to enforce this chapter and to collect civil penalties for a violation of this chapter, subject to the conditions in this section. An enforcing government entity may impose a civil penalty in the amount of up to two thousand dollars for the first violation of this chapter, up to five thousand dollars for the second violation of this chapter, and up to ten thousand dollars for the third and any subsequent violation of this chapter. If a manufacturer or supplier has paid a prior penalty for the same violation to a different government entity with enforcement authority under this subsection, the penalty imposed by a government entity is reduced by the amount of the payment.

(2) Any civil penalties collected pursuant to this section must be paid to the office of the city attorney, city prosecutor, district attorney, or attorney general, whichever office brought the action. Penalties collected by the attorney general on behalf of the state must be deposited in the compostable products revolving account created in section 11 of this act.

(3) The remedies provided by this section are not exclusive and are in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other consumer protection laws, if applicable.

(4) In addition to penalties recovered under this section, the enforcing government entity may recover reasonable enforcement costs and attorneys' fees from the liable manufacturer or supplier.

NEW SECTION. Sec. 10. Manufacturers and suppliers who violate the requirements of this chapter are subject to civil penalties described in section 9 of this act. A specific violation is deemed to have occurred upon the sale of noncompliant product by stock-keeping unit number or unique item number. The repeated sale of the same noncompliant product by stock-keeping unit number or unique item number is considered a single violation. A city, county, or the state must send a written notice and a copy of the requirements to a noncompliant manufacturer or supplier of an alleged violation, who will have ninety days to become compliant. A city, county, or the state may assess a first penalty if the manufacturer or supplier has not met the requirements ninety days following the date the notification was sent. A city, county, or the state may impose second, third, and subsequent penalties on a manufacturer or supplier that remains noncompliant with the requirements of this chapter for every month of noncompliance.

NEW SECTION. Sec. 11. The compostable products revolving account is created in the custody of the state treasurer. All receipts from civil penalties or other amounts recovered by the state in enforcement actions under section 9 of this act must be deposited in the account. Expenditures from the account must be used by the attorney general for the payment of costs, expenses, and charges incurred in the enforcement of this chapter. Only the attorney general or the attorney general'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. 12.** Sections 1 through 11 and 13 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 13.** This act takes effect July 1, 2020.

NEW SECTION. **Sec. 14.** 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 11, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 266

[House Bill 1604]

CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS--RENAMING AS CENTER FOR DEAF AND HARD OF HEARING YOUTH

AN ACT Relating to the Washington center for deaf and hard of hearing youth; amending RCW 72.40.015, 72.40.019, 72.40.0191, 72.40.024, 72.40.028, 72.40.070, 72.40.120, 72.40.200, 72.40.210, 72.40.220, 72.40.250, 72.40.290, 26.44.210, 28A.155.160, 28A.310.010, 28A.310.180, 28A.310.200, 28A.335.205, 28A.400.300, 28A.400.305, 28A.600.020, 28A.600.420, 39.26.300, 41.40.088, 70.198.020, 72.42.010, 72.42.015, 72.42.016, and 72.42.060; and reenacting and amending RCW 28A.400.303 and 43.79A.040.

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

Sec. 1. RCW 72.40.015 and 2009 c 381 s 2 are each amended to read as follows:

(1) The Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth is established to provide statewide leadership for the coordination and delivery of educational services to children who are deaf or hard of hearing. The activities of the center shall be under the authority of the director and the board of trustees. The superintendent and board of trustees of the state school for the deaf ((as of July 26, 2009,)) shall be the director and board of trustees of the center.

(2) The center's primary functions are:

(a) Managing and directing the supervision of the state school for the deaf;

(b) Providing statewide leadership and support for the coordination of regionally delivered educational services in the full range of communication modalities, for children who are deaf or hard of hearing; and

(c) Collaborating with appropriate public and private partners for the training and professional development of educators serving children who are deaf or hard of hearing.

Sec. 2. RCW 72.40.019 and 2009 c 381 s 4 are each amended to read as follows:

The governor shall appoint a director for the Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth. The director shall have a master's or higher degree from an accredited college or university in school administration or deaf education, five or more years of experience teaching or providing habilitative services to deaf or hard of hearing

students, and three or more years administrative or supervisory experience in programs for deaf or hard of hearing students.

Sec. 3. RCW 72.40.0191 and 2009 c 381 s 5 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, the director of the Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth:

(1) Shall be responsible for the supervision and management of the center, including the state school for the deaf, and the property of various kinds. The director may designate an individual to oversee the day-to-day operation and supervision of students at the school;

(2) Shall employ members of the faculty, administrative officers, and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law;

(3) Shall provide technical assistance and support as appropriate to local and regional efforts to build critical mass and communication-rich networking opportunities for children who are deaf or hard of hearing and their families;

(4) Shall establish the course of study including vocational training, with the assistance of the faculty and the approval of the board of trustees;

(5) Shall, as approved by the board of trustees, control and authorize the use of the facilities for night school, summer school, public meetings, applied research and training for the instruction of students who are deaf or hard of hearing, outreach and support to families of children who are deaf or hard of hearing, or other purposes consistent with the purposes of the center;

(6) Shall purchase all supplies and lease or purchase equipment and other personal property needed for the operation or maintenance of the center;

(7) Shall prepare, submit to the board of trustees for approval, and administer the budget consistent with RCW 43.88.160 and the budget and accounting act, chapter 43.88 RCW generally, as applicable;

(8) Shall provide technical assistance and support to educational service districts for the regional delivery of a full range of educational services to students who are deaf or hard of hearing, including but not limited to services relying on American Sign Language, auditory oral education, total communication, and signed exact English;

(9) As requested by educational service districts, shall recruit, employ, and deploy itinerant teachers to provide in-district services to children who are deaf or hard of hearing;

(10) May establish criteria, in addition to state certification, for the teachers at the school and employees of the center;

(11) May establish, with the approval of the board of trustees, new facilities as needs demand;

(12) May adopt rules, under chapter 34.05 RCW, as approved by the board of trustees and as deemed necessary for the governance, management, and operation of the center;

(13) May adopt rules, as approved by the board of trustees, for pedestrian and vehicular traffic on property owned, operated, and maintained by the center;

(14) Except as otherwise provided by law, may enter into contracts as the director deems essential to the purpose of the center;

(15) May receive gifts, grants, conveyances, devises, and bequests of real or personal property from whatever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions will aid in carrying out the programs of the center; sell, lease, or exchange, invest, or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms and conditions thereof; and adopt rules to govern the receipt and expenditure of the proceeds, rents, profits, and income thereof;

(16) May adopt rules, as approved by the board of trustees, providing for the transferability of employees between the center and the school for the blind consistent with collective bargaining agreements in effect; and

(17) May adopt rules under chapter 34.05 RCW, as approved by the board of trustees, and perform all other acts not forbidden by law as the director deems necessary or appropriate to the administration of the center.

Sec. 4. RCW 72.40.024 and 2009 c 381 s 6 are each amended to read as follows:

In addition to the powers and duties under RCW 72.40.022 and 72.40.0191, the superintendent of the school for the blind and the director of the Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth, or the director's designee, shall:

(1) Monitor the location and educational placement of each student reported to the superintendent and the director, or the director's designee, by the educational service district superintendents;

(2) Provide information about educational programs, instructional techniques, materials, equipment, and resources available to students with visual or auditory impairments to the parent or guardian, educational service district superintendent, and the superintendent of the school district where the student resides; and

(3) Serve as a consultant to the office of the superintendent of public instruction, provide instructional leadership, and assist school districts in improving their instructional programs for students with visual or hearing impairments.

Sec. 5. RCW 72.40.028 and 2018 c 266 s 405 are each amended to read as follows:

All teachers employed by the Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth and the state school for the blind shall meet all certification requirements and the programs shall meet all accreditation requirements and conform to the standards defined by law or by rule of the Washington professional educator standards board or the office of the state superintendent of public instruction. The superintendent and the director, by rule, may adopt additional educational standards for their respective facilities. Salaries of all certificated employees shall be based on the statewide average salary set forth in RCW 28A.150.410, adjusted by the regionalization factor that applies to the school district in which the program or facility is located. The superintendent and the director may provide for provisional certification for teachers in their respective facilities including certification for emergency, temporary, substitute, or provisional duty.

Sec. 6. RCW 72.40.070 and 2009 c 381 s 18 are each amended to read as follows:

It shall be the duty of each educational service district to make a full and specific report of visually impaired or deaf or hard of hearing youth to the superintendent of the school for the blind or the director of the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, or the director's designee, as the case may be and the superintendent of public instruction, annually. The superintendent of public instruction shall report about the deaf or hard of hearing or visually impaired youth to the school for the blind and the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, as the case may be, annually.

Sec. 7. RCW 72.40.120 and 2009 c 381 s 8 are each amended to read as follows:

Any appropriation for the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth or the school for the blind shall be made directly to the center or the school for the blind.

Sec. 8. RCW 72.40.200 and 2009 c 381 s 9 are each amended to read as follows:

The Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth and the state school for the blind shall promote the personal safety of students and protect the children who attend from child abuse and neglect as defined in RCW 26.44.020.

Sec. 9. RCW 72.40.210 and 2009 c 381 s 10 are each amended to read as follows:

The director of the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth and the superintendent of the state school for the blind or their designees shall immediately report to the persons indicated the following events:

- (1) To the child's parent, custodian, or guardian:
 - (a) The death of the child;
 - (b) Hospitalization of a child in attendance or residence at the facility;
 - (c) Allegations of child abuse or neglect in which the parent's child in attendance or residence at the facility is the alleged victim;
 - (d) Allegations of physical or sexual abuse in which the parent's child in attendance or residence at the facility is the alleged perpetrator;
 - (e) Life-threatening illness;
 - (f) The attendance at the facility of any child who is a registered sex offender under RCW 9A.44.130 as permitted by RCW 4.24.550.

(2) Notification to the parent shall be made by the means most likely to be received by the parent. If initial notification is made by telephone, such notification shall be followed by notification in writing within forty-eight hours after the initial verbal contact is made.

Sec. 10. RCW 72.40.220 and 2009 c 381 s 19 are each amended to read as follows:

(1) The director of the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, or the director's designee, and the superintendent of the state school for the blind shall maintain in writing and implement behavior management policies and procedures that accomplish the following:

(a) Support the child's appropriate social behavior, self-control, and the rights of others;

(b) Foster dignity and self-respect for the child;

(c) Reflect the ages and developmental levels of children in care.

(2) The state school for the deaf and the state school for the blind shall use proactive, positive behavior support techniques to manage potential child behavior problems. These techniques shall include but not be limited to:

(a) Organization of the physical environment and staffing patterns to reduce factors leading to behavior incidents;

(b) Intervention before behavior becomes disruptive, in the least invasive and least restrictive manner available;

(c) Emphasis on verbal de-escalation to calm the upset child;

(d) Redirection strategies to present the child with alternative resolution choices.

Sec. 11. RCW 72.40.250 and 2009 c 381 s 20 are each amended to read as follows:

In addition to the powers and duties under RCW 72.40.022 and 72.40.024, the director of the Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth, or the director's designee, and the superintendent of the state school for the blind shall:

(1) Develop written procedures for the supervision of employees and volunteers who have the potential for contact with students. Such procedures shall be designed to prevent child abuse and neglect by providing for adequate supervision of such employees and volunteers, taking into consideration such factors as the student population served, architectural factors, and the size of the facility. Such procedures shall include, but need not be limited to, the following:

(a) Staffing patterns and the rationale for such;

(b) Responsibilities of supervisors;

(c) The method by which staff and volunteers are made aware of the identity of all supervisors, including designated on-site supervisors;

(d) Provision of written supervisory guidelines to employees and volunteers;

(e) Periodic supervisory conferences for employees and volunteers; and

(f) Written performance evaluations of staff to be conducted by supervisors in a manner consistent with applicable provisions of the civil service law.

(2) Develop written procedures for the protection of students when there is reason to believe an incident has occurred which would render a minor student an abused or neglected child within the meaning of RCW 26.44.020. Such procedures shall include, but need not be limited to, the following:

(a) Investigation. Immediately upon notification that a report of child abuse or neglect has been made to the department of social and health services or a law enforcement agency, the superintendent or the director, or the director's designee, shall:

(i) Preserve any potential evidence through such actions as securing the area where suspected abuse or neglect occurred;

(ii) Obtain proper and prompt medical evaluation and treatment, as needed, with documentation of any evidence of abuse or neglect; and

(iii) Provide necessary assistance to the department of social and health services and local law enforcement in their investigations;

(b) Safety. Upon notification that a report of suspected child abuse or neglect has been made to the department of social and health services or a law enforcement agency, the superintendent or the director or his or her designee, with consideration for causing as little disruption as possible to the daily routines of the students, shall evaluate the situation and immediately take appropriate action to assure the health and safety of the students involved in the report and of any other students similarly situated, and take such additional action as is necessary to prevent future acts of abuse or neglect. Such action may include:

(i) Consistent with federal and state law:

(A) Removing the alleged perpetrator from the school;

(B) Increasing the degree of supervision of the alleged perpetrator; and

(C) Initiating appropriate disciplinary action against the alleged perpetrator;

(ii) Provision of increased training and increased supervision to volunteers and staff pertinent to the prevention and remediation of abuse and neglect;

(iii) Temporary removal of the students from a program and reassignment of the students within the school, as an emergency measure, if it is determined that there is a risk to the health or safety of such students in remaining in that program. Whenever a student is removed, pursuant to this subsection (2)(b)(iii), from a special education program or service specified in his or her individualized education program, the action shall be reviewed in an individualized education program meeting; and

(iv) Provision of counseling to the students involved in the report or any other students, as appropriate;

(c) Corrective action plans. Upon receipt of the results of an investigation by the department of social and health services pursuant to a report of suspected child abuse or neglect, the superintendent or the director, or the director's designee, after consideration of any recommendations by the department of social and health services for preventive and remedial action, shall implement a written plan of action designed to assure the continued health and safety of students and to provide for the prevention of future acts of abuse or neglect.

Sec. 12. RCW 72.40.290 and 2012 c 114 s 1 are each amended to read as follows:

The center for (~~(childhood deafness and hearing loss)~~) deaf and hard of hearing youth account is created in the custody of the state treasurer. All receipts from contracts, grants, gifts, conveyances, devises, and bequests of real or personal property, or payments received from RCW 72.40.0191 (14) and (15) and 72.40.050 must be deposited into the account. Expenditures from the account may be used only for duties related to RCW 72.40.0191 (14) and (15) and 72.40.050. Only the director of the center for (~~(childhood deafness and hearing loss)~~) deaf and hard of hearing youth 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. 13. RCW 26.44.210 and 2009 c 381 s 23 are each amended to read as follows:

(1) The department must investigate referrals of alleged child abuse or neglect occurring at the state school for the deaf, including alleged incidents involving students abusing other students; determine whether there is a finding

of abuse or neglect; and determine whether a referral to law enforcement is appropriate under this chapter.

(2) The department must send a copy of the investigation report, including the finding, regarding any incidents of alleged child abuse or neglect at the state school for the deaf to the ~~((center's))~~ director of the Washington center for deaf and hard of hearing youth, or the director's designee. The department may include recommendations to the director and the board of trustees or its successor board for increasing the safety of the school's students.

Sec. 14. RCW 28A.155.160 and 2018 c 58 s 32 are each amended to read as follows:

Notwithstanding any other provision of law, the office of the superintendent of public instruction, the department of children, youth, and families, the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, the Washington state school for the blind, school districts, educational service districts, and all other state and local government educational agencies and the department of services for the blind, the department of social and health services, and all other state and local government agencies concerned with the care, education, or habilitation or rehabilitation of children with disabilities may enter into interagency cooperative agreements for the purpose of providing assistive technology devices and services to children with disabilities. Such arrangements may include but are not limited to interagency agreements for the acquisition, including joint funding, maintenance, loan, sale, lease, or transfer of assistive technology devices and for the provision of assistive technology services including but not limited to assistive technology assessments and training.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities. The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology service includes:

(1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for a child with a disability or if appropriate, the child's family; and

(6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with disabilities.

Sec. 15. RCW 28A.310.010 and 2009 c 381 s 25 are each amended to read as follows:

It shall be the intent and purpose of this chapter to establish educational service districts as regional agencies which are intended to:

- (1) Provide cooperative and informational services to local school districts;
- (2) Assist the superintendent of public instruction and the state board of education in the performance of their respective statutory or constitutional duties; and
- (3) Provide services to school districts and to the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth and the school for the blind to assure equal educational opportunities.

Sec. 16. RCW 28A.310.180 and 2009 c 381 s 26 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

- (1) Comply with rules ((or regulations)) of the state board of education and the superintendent of public instruction.
- (2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the service area of the educational service district(~~(= PROVIDED, That)~~). However, the district may also provide the services of the depository and distribution center to private schools within the district so long as such private schools pay such fees that reflect actual costs for services and the use of instructional materials as may be established by the educational service district board.
- (3) Establish cooperative service programs for school districts within the educational service district and joint purchasing programs for schools within the educational service district pursuant to RCW 28A.320.080(3)(~~(= PROVIDED, That)~~). However, on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district.

(4) Establish direct student service programs for school districts within the educational service district including pupil transportation. However, for the provision of state-funded pupil transportation for special education cooperatives programs for special education conducted under RCW 28A.155.010 through 28A.155.100, the educational service district, with the consent of the participating school districts, shall be entitled to receive directly state apportionment funds for that purpose: PROVIDED, That the board of directors and superintendent of a local school district request the educational service district to perform said service or services: PROVIDED FURTHER, That the educational service district board of directors and superintendents agree to provide the requested services: PROVIDED, FURTHER, That the provisions of chapter 39.34 RCW are strictly adhered to: PROVIDED FURTHER, That the educational service district board of directors may contract with the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth and the school for the blind to provide transportation services or

other services necessary for the regional delivery of educational services for children who are deaf or hearing impaired.

Sec. 17. RCW 28A.310.200 and 2009 c 381 s 27 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter;

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chair or a majority of the board;

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.310.230;

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding;

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district;

(6) Acquire by borrowing funds or by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes. No real property shall be acquired or alienated without the prior approval of the superintendent of public instruction and the acquisition or alienation of all such property shall be subject to such provisions as the superintendent may establish. When borrowing funds for the purpose of acquiring property, the educational service district board shall pledge as collateral the property to be acquired. Borrowing shall be evidenced by a note or other instrument between the district and the lender;

(7) Under RCW 28A.310.010, upon the written request of the board of directors of a local school district or districts served by the educational service district, the educational service district board of directors may provide cooperative and informational services not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that support the education of preschool through twelfth grade students in the public schools or that support the effective, efficient, or safe management and operation of the school district or districts served by the educational service district;

(8) Adopt such bylaws and rules for its own operation as it deems necessary or appropriate; and

(9) Enter into contracts, including contracts with common and educational service districts and the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts.

Sec. 18. RCW 28A.335.205 and 2009 c 381 s 28 are each amended to read as follows:

Notwithstanding any other provision of law, the office of the superintendent of public instruction, the Washington state school for the blind, the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth, school districts, educational service districts, and all other state or local governmental agencies concerned with education may loan, lease, sell, or transfer assistive devices for the use and benefit of children with disabilities to children with disabilities or their parents or to any other public or private nonprofit agency providing services to or on behalf of individuals with disabilities including but not limited to any agency providing educational, health, or rehabilitation services. The notice requirement in RCW 28A.335.180 does not apply to the loan, lease, sale, or transfer of such assistive devices. The sale or transfer of such devices is authorized under this section regardless of whether or not the devices have been declared surplus. The sale or transfer shall be recorded in an agreement between the parties and based upon the item's depreciated value.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities.

For the purpose of implementing this section, each educational agency shall establish and maintain an inventory of assistive technology devices in its possession that exceed one hundred dollars and, for each such device, shall establish a value, which shall be adjusted annually to reflect depreciation.

This section shall not enhance or diminish the obligation of school districts to provide assistive technology to children with disabilities where needed to achieve a free and appropriate public education and equal opportunity in accessing academic and extracurricular activities.

Sec. 19. RCW 28A.400.300 and 2012 c 186 s 20 are each amended to read as follows:

(1) Every board of directors, unless otherwise specially provided by law, shall:

(a) Except as provided in 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(~~(= PROVIDED, That))~~). 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 days;

(ii) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty 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 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 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 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 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 ((state)) center for ((childhood deafness and hearing loss)) 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(~~(- PROVIDED, That)~~, 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 certified and classified employees in school districts that are dissolved due to financial insolvency shall be conducted in accordance with RCW 28A.315.229.

Sec. 20. RCW 28A.400.303 and 2017 3rd sp.s. c 33 s 1 and 2017 3rd sp.s. c 6 s 220 are each reenacted and amended to read as follows:

(1) School districts, educational service districts, the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, the state school for the blind, and their contractors hiring employees who will have regularly scheduled unsupervised access to children or developmentally disabled persons shall require a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation before hiring an employee. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The requesting entity may provide a copy of the record report to the applicant at the applicant's request. When necessary, applicants may be employed on a conditional basis pending completion of the investigation. If the applicant has had a record check within the previous two years, the district, the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, the state school for the blind, or contractor may waive the requirement. Except as provided in subsection (2) of this section, the district, pursuant to chapter 41.59 or 41.56 RCW, the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, the state school for the blind, or contractor hiring the employee shall determine who shall pay costs associated with the record check.

(2) Federal bureau of Indian affairs-funded schools may use the process in subsection (1) of this section to perform record checks for their employees and applicants for employment.

(3)(a) School districts, educational service districts, the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, the state school for the blind, federal bureau of Indian affairs-funded schools, charter schools established under chapter 28A.710 RCW, schools that are the subject of a state-tribal education compact under chapter 28A.715 RCW, and their contractors may use the process in subsection (1) of this section to perform record checks for any prospective volunteer who will have regularly scheduled unsupervised access to children under eighteen years of age or developmentally disabled persons, during the course of his or her involvement with the school or organization under circumstances where access will or may involve the following:

- (i) Groups of five or fewer children under twelve years of age;
- (ii) Groups of three or fewer children between twelve and eighteen years of age; or

- (iii) Developmentally disabled persons.

(b) For purposes of (a) of this subsection, "unsupervised" means not in the presence of:

- (i) Another employee or volunteer from the same school or organization; or
- (ii) Any relative or guardian of any of the children or developmentally disabled persons to which the prospective employee or volunteer has access during the course of his or her involvement with the school or organization.

(4) Individuals who hold a valid portable background check clearance card issued by the department of children, youth, and families consistent with RCW 43.216.270 can meet the requirements in subsection (1) of this section by providing a true and accurate copy of their Washington state patrol and federal bureau of investigation background report results to the office of the superintendent of public instruction.

(5) The cost of record checks must include: The fees established by the Washington state patrol and the federal bureau of investigation for the criminal history background checks; a fee paid to the superintendent of public instruction for the cost of administering this section and RCW 28A.195.080 and 28A.410.010; and other applicable fees for obtaining the fingerprints.

Sec. 21. RCW 28A.400.305 and 2017 3rd sp.s. c 33 s 2 are each amended to read as follows:

The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to implement RCW 28A.400.303. The rules shall include, but not be limited to the following:

(1) Written procedures providing a school district, approved private school, Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth, state school for the blind, federal bureau of Indian affairs-funded school employee, charter school established under chapter 28A.710 RCW, school that is the subject of a state-tribal education compact under chapter 28A.715 RCW, or applicant for certification or employment access to and review of information obtained based on the record check required under RCW 28A.400.303; and

(2) Written procedures limiting access to the superintendent of public instruction record check database to only those individuals processing record check information at the office of the superintendent of public instruction, the appropriate school district or districts, approved private schools, the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth, the state school for the blind, the appropriate educational service district or districts, the appropriate federal bureau of Indian affairs-funded schools, the appropriate charter schools, and the appropriate state-tribal education compact schools.

Sec. 22. RCW 28A.600.020 and 2016 c 72 s 106 are each amended to read as follows:

(1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to ensure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the

teacher may an excluded student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

(4) The procedures shall assure, pursuant to RCW 28A.400.110, that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom.

(5)(a) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student who, after July 27, 1997:

(i) Engages in two or more violations within a three-year period of RCW 9A.46.120, 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020, 28A.635.060, or 9A.120.020;

(ii) Engages in one or more of the offenses listed in RCW 13.04.155.

(b) The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

(6) Any corrective action involving a suspension or expulsion from school for more than ten days must have an end date of not more than the length of an academic term, as defined by the school board, from the time of corrective action. Districts shall make reasonable efforts to assist students and parents in returning to an educational setting prior to and no later than the end date of the corrective action. Where warranted based on public health or safety, a school may petition the superintendent of the school district, pursuant to policies and procedures adopted by the office of the superintendent of public instruction, for authorization to exceed the academic term limitation provided in this subsection. The superintendent of public instruction shall adopt rules outlining the limited circumstances in which a school may petition to exceed the academic term limitation, including safeguards to ensure that the school district has made every effort to plan for the student's return to school. School districts shall report to the office of the superintendent of public instruction the number of petitions made to the school board and the number of petitions granted on an annual basis.

(7) Nothing in this section prevents a public school district, educational service district, the Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth, or the state school for the blind if it has suspended or expelled a student from the student's regular school setting

from providing educational services to the student in an alternative setting or modifying the suspension or expulsion on a case-by-case basis. An alternative setting should be comparable, equitable, and appropriate to the regular education services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring, and online learning.

Sec. 23. RCW 28A.600.420 and 2009 c 381 s 31 are each amended to read as follows:

(1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district, educational service district, or state school for the blind, or the director of the Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth, or the director's designee, may modify the expulsion of a student on a case-by-case basis.

(2) For purposes of this section, "firearm" means a firearm as defined in 18 U.S.C. Sec. 921, and a "firearm" as defined in RCW 9.41.010.

(3) This section shall be construed in a manner consistent with the individuals with disabilities education act, 20 U.S.C. Sec. 1401 et seq.

(4) Nothing in this section prevents a public school district, educational service district, the Washington ((state)) center for ((~~childhood deafness and hearing loss~~)) deaf and hard of hearing youth, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

(5) This section does not apply to:

(a) Any student while engaged in military education authorized by school authorities in which rifles are used but not other firearms; or

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the rifles of collectors or instructors are handled or displayed but not other firearms; or

(c) Any student while participating in a rifle competition authorized by school authorities.

(6) A school district may suspend or expel a student for up to one year subject to subsections (1), (3), (4), and (5) of this section, if the student acts with malice as defined under RCW 9A.04.110 and displays an instrument that appears to be a firearm, on public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools.

Sec. 24. RCW 39.26.300 and 2018 c 253 s 3 are each amended to read as follows:

(1) The department of social and health services, the department of children, youth, and families, and the health care authority are each authorized to purchase interpreter services on behalf of limited English-speaking applicants and recipients of public assistance.

(2) The department of labor and industries is authorized to purchase interpreter services for medical and vocational providers authorized to provide services to limited English-speaking injured workers or crime victims.

(3) No later than September 1, 2020, the department of social and health services, the department of children, youth, and families, the health care authority, and the department of labor and industries must purchase in-person spoken language interpreter services directly from language access providers as defined in RCW 74.04.025, or through limited contracts with scheduling and coordinating delivery organizations, or both. Each state agency must have at least one contract with an entity that provides interpreter services through telephonic and video remote technologies. Nothing in this section precludes the department of labor and industries from purchasing in-person spoken language interpreter services directly from language access providers or from directly reimbursing language access providers.

(4) Notwithstanding subsection (3) of this section, the department of labor and industries may pay a language access provider directly for the costs of interpreter services when the services are necessary for use by a medical provider for emergency or urgent care, or where the medical provider determines that advanced notice is not feasible.

(5) Upon the expiration of any contract in effect on June 7, 2018, but no later than September 1, 2020, the department must develop and implement a model that all state agencies must use to procure spoken language interpreter services by purchasing directly from language access providers or through contracts with scheduling and coordinating entities, or both. The department must have at least one contract with an entity that provides interpreter services through telephonic and video remote technologies. If the department determines it is more cost-effective or efficient, it may jointly purchase these services with the department of social and health services, the department of children, youth, and families, the health care authority, and the department of labor and industries as provided in subsection (3) of this section. The department of social and health services, ~~((the))~~ the department of children, youth, and families, the health care authority, and the department of labor and industries have the authority to procure interpreters through the department if the demand for spoken language interpreters cannot be met through their respective contracts.

(6) All interpreter services procured under this section must be provided by language access providers who are certified or authorized by the state, or nationally certified by the certification commission for health care interpreters or the national board for certification of medical interpreters. When a nationally certified, state-certified, or authorized language access provider is not available, a state agency is authorized to contract with a spoken language interpreter with other certifications or qualifications deemed to meet agency needs. Nothing in this subsection precludes providing interpretive services through state employees or employees of medical or vocational providers.

(7) Nothing in this section is intended to address how state agencies procure interpreters for sensory-impaired persons.

(8) For purposes of this section, "state agency" means any state office or activity of the executive branch of state government, including state agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions, but excludes institutions of higher education as defined in

RCW 28B.10.016, the school for the blind, and the Washington center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth.

Sec. 25. RCW 41.40.088 and 2009 c 381 s 32 are each amended to read as follows:

(1) A plan 1 member who is employed by a school district or districts, an educational service district, the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, the state school for the blind, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for six hundred thirty hours or more during that period, and is employed during nine months of that period, except that a member may not receive credit for any period prior to the member's employment in an eligible position;

(b) If a member in an eligible position does not meet the requirements of (a) of this subsection, the member is entitled to a service credit month for each month of the period he or she earns earnable compensation for seventy or more hours; and the member is entitled to a one-quarter service credit month for those calendar months during which he or she earned compensation for less than seventy hours.

(2) Except for any period prior to the member's employment in an eligible position, a plan 2 or plan 3 member who is employed by a school district or districts, an educational service district, the state school for the blind, the Washington ~~((state))~~ center for ~~((childhood deafness and hearing loss))~~ deaf and hard of hearing youth, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period;

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours;

(d) After August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2 or plan 3.

(3) The department shall adopt rules implementing this section.

Sec. 26. RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and 2018 c 127 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 Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family 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 future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the 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 pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth

athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for (~~childhood deafness and hearing loss~~) 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~~) the public employees' and retirees' insurance account, (~~the~~) the school employees' insurance account, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

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

Sec. 27. RCW 70.198.020 and 2018 c 58 s 12 are each amended to read as follows:

(1) There is established an advisory council in the department of social and health services for the purpose of advancing the development of a comprehensive and effective statewide system to provide prompt and effective early interventions for children in the state who are deaf or hard of hearing and their families.

(2) Members of the advisory council shall have training, experience, or interest in hearing loss in children. Membership shall include, but not be limited to, the following: Pediatricians; audiologists; teachers of the deaf and hard of hearing; parents of children who are deaf or hard of hearing; a representative from the Washington (~~state~~) center for (~~childhood deafness and hearing loss~~) deaf and hard of hearing youth; and representatives of the early support for infants and toddlers program in the department of children, youth, and families, the department of health, and the office of the superintendent of public instruction.

Sec. 28. RCW 72.42.010 and 2009 c 381 s 13 are each amended to read as follows:

It is the intention of the legislature, in creating a board of trustees for the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth to perform the duties set forth in this chapter, that the board of trustees perform needed oversight services to the governor and the legislature of the center in the development of programs for the hard of hearing, and in the operation of the center, including the school for the deaf.

Sec. 29. RCW 72.42.015 and 2009 c 381 s 14 are each amended to read as follows:

Unless the context clearly requires otherwise as used in this chapter "director" means the director of the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth.

Sec. 30. RCW 72.42.016 and 2009 c 381 s 15 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter:

(1) "Center" means the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth serving local school districts across the state; and

(2) "School" means the Washington state residential school for the deaf located in Vancouver, Washington.

Sec. 31. RCW 72.42.060 and 2009 c 381 s 22 are each amended to read as follows:

Each member of the board of trustees shall receive travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and such payments shall be a proper charge to any funds appropriated or allocated for the support of the Washington ((state)) center for ((childhood deafness and hearing loss)) deaf and hard of hearing youth.

Passed by the House March 4, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 267

[Substitute House Bill 1607]

HEALTH CARE MARKET PARTICIPANTS--MATERIAL CHANGES--NOTICE

AN ACT Relating to notice of material changes to the operations or governance structure of participants in the health care marketplace; adding a new chapter to Title 19 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** INTENT. It is the intent of the legislature to ensure that competition beneficial to consumers in health care markets across Washington remains vigorous and robust. The legislature supports that intent through this act, which provides the attorney general with notice of all material health care transactions in this state so that the attorney general has the information necessary to determine whether an investigation under the consumer protection act is warranted for potential anticompetitive conduct and consumer harm. This act is intended to supplement the federal Hart-Scott-Rodino antitrust

improvements act, Title 15 U.S.C. Sec. 18a, by requiring notice of transactions not reportable under Hart-Scott-Rodino reporting thresholds and by providing the attorney general with a copy of any filings made pursuant to the Hart-Scott-Rodino act.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acquisition" means an agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes the acquisition of voting securities and noncorporate interests, such as assets, capital stock, membership interests, or equity interests.

(2) "Carrier" means the same as in RCW 48.43.005.

(3) "Contracting affiliation" means the formation of a relationship between two or more entities that permits the entities to negotiate jointly with carriers or third-party administrators over rates for professional medical services, or for one entity to negotiate on behalf of the other entity with carriers or third-party administrators over rates for professional medical services. "Contracting affiliation" does not include arrangements among entities under common ownership.

(4) "Health care services" means medical, surgical, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, mental health, substance use disorder, therapeutic, preventative, diagnostic, curative, rehabilitative, palliative, custodial, and any other services relating to the prevention, cure, or treatment of illness, injury, or disease.

(5) "Health care services revenue" means the total revenue received for health care services in the previous twelve months.

(6) "Health maintenance organization" means an organization receiving a certificate of registration pursuant to chapter 48.46 RCW which provides comprehensive health care services to enrolled participants of such organization on a group practice per capita prepayment basis or on a prepaid individual practice plan, except for an enrolled participant's responsibility for copayments and deductibles, either directly or through contractual or other arrangements with other institutions, entities, or persons, and which qualifies as a health maintenance organization pursuant to RCW 48.46.030 and 48.46.040.

(7) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

(8) "Hospital system" means:

(a) A parent corporation of one or more hospitals and any entity affiliated with such parent corporation through ownership or control; or

(b) A hospital and any entity affiliated with such hospital through ownership.

(9) "Merger" means a consolidation of two or more organizations, including two or more organizations joining through a common parent organization or two or more organizations forming a new organization, but does not include a corporate reorganization.

(10) "Person" means, where applicable, natural persons, corporations, trusts, and partnerships.

(11) "Provider" means a natural person who practices a profession identified in RCW 18.130.040.

(12) "Provider organization" means a corporation, partnership, business trust, association, or organized group of persons, whether incorporated or not, which is in the business of health care delivery or management and that represents seven or more health care providers in contracting with carriers or third-party administrators for the payments of health care services. A "provider organization" includes physician organizations, physician-hospital organizations, independent practice associations, provider networks, and accountable care organizations.

(13) "Third-party administrator" means an entity that administers payments for health care services on behalf of a client in exchange for an administrative fee.

NEW SECTION. Sec. 3. NOTICE OF MATERIAL CHANGE. (1) Not less than sixty days prior to the effective date of any transaction that results in a material change, the parties to the transaction shall submit written notice to the attorney general of such material change.

(2) For the purposes of this section, a material change includes a merger, acquisition, or contracting affiliation between two or more entities of the following types:

- (a) Hospitals;
- (b) Hospital systems; or
- (c) Provider organizations.

(3) A material change includes proposed changes identified in subsection (2) of this section between a Washington entity and an out-of-state entity where the out-of-state entity generates ten million dollars or more in health care services revenue from patients residing in Washington state, and the entities are of the types identified in subsection (2) of this section. Any party to a material change that is licensed or operating in Washington state shall submit a notice as required under this section.

(4) For purposes of subsection (2) of this section, a merger, acquisition, or contracting affiliation between two or more hospitals, hospital systems, or provider organizations only qualifies as a material change if the hospitals, hospital systems, or provider organizations did not previously have common ownership or a contracting affiliation.

NEW SECTION. Sec. 4. NOTICE REQUIREMENTS. (1) The written notice provided by the parties, as required by section 3 of this act, must include:

- (a) The names of the parties and their current business addresses;
- (b) Identification of all locations where health care services are currently provided by each party;
- (c) A brief description of the nature and purpose of the proposed material change; and
- (d) The anticipated effective date of the proposed material change.

(2) Nothing in this section prohibits the parties to a material change from voluntarily providing additional information to the attorney general.

NEW SECTION. Sec. 5. REQUESTS FOR ADDITIONAL INFORMATION. The attorney general shall make any requests for additional information from the parties under RCW 19.86.110 within thirty days of the date notice is received under sections 3 and 4 of this act. Nothing in this section

precludes the attorney general from conducting an investigation or enforcing state or federal antitrust laws at a later date.

NEW SECTION. Sec. 6. HART-SCOTT-RODINO ACT. Any provider or provider organization conducting business in this state that files a premerger notification with the federal trade commission or the United States department of justice, in compliance with the Hart-Scott-Rodino antitrust improvements act, Title 15 U.S.C. Sec. 18a, shall provide a copy of such filing to the attorney general. Providing a copy of the Hart-Scott-Rodino filing to the attorney general satisfies the notice requirement under section 4 of this act.

NEW SECTION. Sec. 7. MATERIALS SUBMITTED TO THE ATTORNEY GENERAL. Information submitted to the attorney general pursuant to this chapter shall be maintained and used by the attorney general in the same manner and under the same protections as provided in RCW 19.86.110. The information, including documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand or copies, must not, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying pursuant to chapter 42.56 RCW by the person who produced the material, answered written interrogatories or gave oral testimony. Nothing in this chapter limits the attorney general's authority under RCW 19.86.110 or 19.86.115. Nothing in this chapter expands the attorney general's authority under chapter 19.86 RCW, federal or state antitrust law, or any other law. Failure to comply with this chapter does not provide a private cause of action.

NEW SECTION. Sec. 8. PENALTY FOR NONCOMPLIANCE. Any person who fails to comply with any provision of this chapter is liable to the state for a civil penalty of not more than two hundred dollars per day for each day during which such person is in violation of this chapter.

NEW SECTION. Sec. 9. The notice requirement in section 3 of this act applies to transactions with an anticipated effective date on or after January 1, 2020.

NEW SECTION. Sec. 10. Sections 1 through 9 of this act constitute a new chapter in Title 19 RCW.

Passed by the House March 8, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 268

[Substitute House Bill 1658]

PARAEDUCATORS--VARIOUS PROVISIONS

AN ACT Relating to paraeducators; amending RCW 28A.413.060, 28A.413.070, 28A.660.042, and 28A.660.050; adding a new section to chapter 28A.413 RCW; creating a new section; 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 28A.413 RCW to read as follows:

The paraeducator board must promote the use of paraeducators to meet educator workforce needs by:

(1) Communicating to school districts and educational service districts the requirements for requesting a limited teaching certificate on behalf of a paraeducator;

(2) Encouraging and supporting paraeducators to take on the role of teacher under a limited teaching certificate or by enrolling in an alternative route teacher certification program under chapter 28A.660 RCW; and

(3) Supporting school districts and educational service districts in using paraeducators in teacher roles.

NEW SECTION. Sec. 2. By December 10, 2019, and in compliance with RCW 43.01.036, the paraeducator board must report to the appropriate committees of the legislature with recommendations on reducing barriers to school districts and educational service districts using paraeducators on limited teaching certificates in teacher roles or to supporting paraeducators to become fully certificated teachers.

Sec. 3. RCW 28A.413.060 and 2018 c 153 s 3 are each amended to read as follows:

(1) School districts must implement this section only in school years for which state funding is appropriated specifically for the purposes of this section and only for the number of days that are funded by the appropriation.

(2) School districts must provide a four-day fundamental course of study on the state standards of practice, as defined by the board, to paraeducators who have not completed the course, either in the district or in another district within the state. At least one day of the fundamental course of study must be provided in person. School districts must use best efforts to provide the fundamental course of study before the paraeducator begins to work with students and their families, and at a minimum by the deadlines provided in subsection (3) of this section.

(3) Except as provided in (b) of this subsection, school districts must provide the fundamental course of study required in subsection (2) of this section by the deadlines provided in (a) of this subsection:

(a)(i) For paraeducators hired on or before September 1st, the first two days of the fundamental course of study must be provided by September 30th of that year and the second two days of the fundamental course of study must be provided within six months of the date of hire, regardless of the size of the district; and

(ii) For paraeducators hired after September 1st:

(A) For districts with ten thousand or more students, the first two days of the fundamental course of study must be provided within four months of the date of hire and the second two days of the fundamental course of study must be provided within six months of the date of hire or by September 1st of the following year, whichever is sooner; and

(B) For districts with fewer than ten thousand students, no later than September 1st of the following year.

(b)(i) For paraeducators hired for the 2018-19 school year, by September 1, 2020; and

(ii) For paraeducators not hired for the 2018-19 school year, but hired for the 2019-20 school year, by September 1, 2021.

(4) School districts may collaborate with other school districts or educational service districts to meet the requirements of this section.

Sec. 4. RCW 28A.413.070 and 2018 c 153 s 4 are each amended to read as follows:

(1)(a) School districts must implement this section only in school years for which state funding is appropriated specifically for the purposes of this section and only for the number of days that are funded by the appropriation.

(b) School districts are encouraged to provide at least one day of the ten days of general courses, as defined by the board, on the state paraeducator standards of practice as a professional learning day, where paraeducators collaborate with certified staff and other classified staff on applicable courses.

(2)(a) Paraeducators may become eligible for a general paraeducator certificate by completing the four-day fundamental course of study, as required under RCW 28A.413.060, and an additional ten days of general courses, as defined by the board, on the state paraeducator standards of practice, described in RCW 28A.413.050.

(b) Paraeducators are not required to meet the general paraeducator certificate requirements under this subsection (2) unless the courses necessary to meet the requirements are funded by the state in accordance with subsection (1) of this section and RCW 28A.413.060(1).

(3) Beginning September 1, 2019, school districts must:

(a) Provide paraeducators with general courses on the state paraeducator standards of practice; and

(b) Ensure all paraeducators employed by the district meet the general certification requirements of this section within three years of completing the four-day fundamental course of study.

(4) The general paraeducator certificate does not expire.

Sec. 5. RCW 28A.660.042 and 2017 c 237 s 19 are each amended to read as follows:

(1) The pipeline for paraeducators conditional scholarship program is created. Participation is limited to paraeducators without a college degree who have at least ~~((three))~~ one year~~((s))~~ of classroom experience. It is anticipated that candidates enrolled in this program will complete their associate of arts degree at a community and technical college in ~~((two))~~ four years or less and become eligible for an endorsement in a subject matter shortage area, as defined by the professional educator standards board, via ~~((route one in the alternative routes to))~~ a teacher certification program ((provided in this chapter)) approved by the professional educator standards board.

(2) Entry requirements for candidates include district or building validation of qualifications, including ~~((three))~~ one year~~((s))~~ of successful student interaction and leadership as a classified instructional employee.

Sec. 6. RCW 28A.660.050 and 2016 c 233 s 14 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the student achievement council. In administering the programs, the council has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of professional educator standards board-approved alternative route teacher certification programs (~~(under RCW 28A.660.040)~~). For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in an alternative route teacher certification program through a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route teacher certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route teacher certification program in which the recipient is enrolled. The council may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than ~~((two))~~ four years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative route teacher certification program for an early childhood education, elementary education, mathematics, computer science, special education, bilingual education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route teacher certification program in which the recipient is enrolled. The student achievement council may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The educator retooling conditional scholarship program is limited to current K-12 teachers. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue an endorsement in a subject or geographic endorsement shortage area, as defined by the

professional educator standards board, including but not limited to mathematics, science, special education, elementary education, early childhood education, bilingual education, English language learner, computer science education, or environmental and sustainability education; or

(ii) Individuals who are certificated with an elementary education endorsement shall pursue an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board, including but not limited to mathematics, science, special education, bilingual education, English language learner, computer science education, or environmental and sustainability education; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board, including but not limited to mathematics, science, special education, bilingual education, English language learner, computer science education, or environmental and sustainability education, which shall include passing an endorsement test plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members. In awarding conditional scholarships to support additional bilingual education or English language learner endorsements, the board shall also give preference to teachers assigned to schools required under state or federal accountability measures to implement a plan for improvement, and to teachers assigned to schools whose enrollment of English language learner students has increased an average of more than five percent per year over the previous three years.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The student achievement council shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The student achievement council may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

NEW SECTION. **Sec. 7.** Sections 5 and 6, chapter . . . , Laws of 2019 (sections 5 and 6 of this act) take effect only if Engrossed Substitute House Bill No. 1139, chapter . . . , Laws of 2019 is not enacted.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 269

[House Bill 1714]

COMMUNITY AND TECHNICAL COLLEGES--HIGH SCHOOL DIPLOMA WITH ASSOCIATE DEGREE

AN ACT Relating to granting of high school diplomas by community or technical colleges; and amending RCW 28B.50.535.

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

Sec. 1. RCW 28B.50.535 and 2017 c 93 s 1 are each amended to read as follows:

A community or technical college may issue a high school diploma or certificate as provided under this section.

(1) An individual who satisfactorily meets the requirements for high school completion shall be awarded a diploma from the college, subject to rules adopted by the superintendent of public instruction and the state board of education.

(2) ~~((An individual enrolled through the option established under RCW 28A.600.310 through 28A.600.400 who satisfactorily completes an associate degree, including an associate of arts degree, associate of science degree, associate of technology degree, or associate in applied science degree, shall be awarded a diploma from the college upon written request from the student.~~

~~(3))~~ (3)) An individual((~~twenty-one~~) sixteen years or older or enrolled through the option established under RCW 28A.600.310 through 28A.600.400, ((who enrolls in a community or technical college for the purpose of obtaining an associate degree and)) who satisfactorily completes an associate degree through a community or technical college, including an associate of arts degree, associate of science degree, associate of technology degree, or associate in applied science degree, shall be awarded a diploma from the college upon written request from the student. Individuals under twenty-one years of age under this subsection are ((not)) eligible for funding provided under chapter 28A.150 RCW.

~~((4) An individual who enrolls in a technical college through the option established under RCW 28B.50.533, who satisfactorily completes an associate degree, including an associate of arts degree, associate of science degree, associate of technology degree, or associate in applied science degree, shall be awarded a diploma from the college upon written request from the student.))~~

Passed by the House March 4, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 270

[House Bill 1726]

HEALTH CARE PROFESSIONAL STUDENTS--PERFORMANCE OF SERVICES UNDER SUPERVISION

AN ACT Relating to services provided by health care professional students; amending RCW 18.57.040, 18.71.030, and 18.79.240; and adding a new section to chapter 18.64 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.64 RCW to read as follows:

(1) This chapter does not prohibit a student from practicing pharmacy if:

(a) The student is enrolled in a college or school of pharmacy accredited by the commission and is registered as a pharmacy intern under RCW 18.64.080;

(b) The student performs services without compensation or the expectation of compensation as part of a volunteer activity;

(c) The student is under the direct supervision of a pharmacist licensed under this chapter, a physician licensed under chapter 18.71 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, or a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW;

(d) The services the student performs are within the scope of practice of: (i) A pharmacist licensed under this chapter; and (ii) the person supervising the student;

(e) The college or school in which the student is enrolled verifies that the student has demonstrated competency through his or her education and training to perform the services; and

(f) The student provides proof of current malpractice insurance to the volunteer activity organizer prior to performing any services.

(2) The commission may adopt rules to implement the requirements of this section.

Sec. 2. RCW 18.57.040 and 1991 c 160 s 5 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit:

(1) Service in the case of emergency;

(2) The domestic administration of family remedies;

(3) The practice of midwifery as permitted under chapter 18.50 RCW;

(4) The practice of osteopathic medicine and surgery by any commissioned medical officer in the United States government or military service or by any osteopathic physician and surgeon employed by a federal agency, in the discharge of his or her official duties;

(5) Practice by a dentist licensed under chapter 18.32 RCW when engaged exclusively in the practice of dentistry;

(6) Practice by any osteopathic physician and surgeon from any other state or territory in which he or she resides: PROVIDED, That such practitioner shall not open an office or appoint a place of meeting patients or receive calls within the limits of this state;

(7) Practice by a person who is a student enrolled in an accredited school of osteopathic medicine and surgery approved by the board if: (~~PROVIDED, That~~)

(a) The performance of such services ((be)) is only pursuant to a course of instruction or assignments from his or her instructor or school, and such services are performed only under the supervision of a person licensed pursuant to this chapter or chapter 18.71 RCW; or

(b)(i) Such services are performed without compensation or expectation of compensation as part of a volunteer activity;

(ii) The student is under the direct supervision and control of a pharmacist licensed under chapter 18.64 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, or a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW;

(iii) The services the student performs are within the scope of practice of: (A) An osteopathic physician and surgeon licensed under this chapter; and (B) the person supervising the student;

(iv) The school in which the student is enrolled verifies the student has demonstrated competency through his or her education and training to perform the services; and

(v) The student provides proof of current malpractice insurance to the volunteer activity organizer prior to performing any services;

(8) Practice by an osteopathic physician and surgeon serving a period of clinical postgraduate medical training in a postgraduate program approved by the board: PROVIDED, That the performance of such services be only pursuant to a course of instruction in said program, and said services are performed only under the supervision and control of a person licensed pursuant to this chapter or chapter 18.71 RCW; or

(9) Practice by a person who is enrolled in a physician assistant program approved by the board who is performing such services only pursuant to a course of instruction in said program: PROVIDED, That such services are performed only under the supervision and control of a person licensed pursuant to this chapter or chapter 18.71 RCW.

This chapter shall not be construed to apply in any manner to any other system or method of treating the sick or afflicted or to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer.

Sec. 3. RCW 18.71.030 and 1996 c 178 s 4 are each amended to read as follows:

Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter 28A.210 RCW;

(4) The practice of dentistry, osteopathic medicine and surgery, nursing, chiropractic, podiatric medicine and surgery, optometry, naturopathy, or any other healing art licensed under the methods or means permitted by such license;

(5) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service

or any medical officer on duty with the United States veterans administration while such medical officer is engaged in the performance of the duties prescribed for him or her by the laws and regulations of the United States;

(6) The practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(7) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the commission ~~(, however,)~~ if:

(a) The performance of such services ((be)) is only pursuant to a regular course of instruction or assignments from his or her instructor(=) or ((that));

(b) Such services are performed only under the supervision and control of a person licensed pursuant to this chapter; or

(c)(i) Such services are performed without compensation or expectation of compensation as part of a volunteer activity;

(ii) The student is under the direct supervision and control of a pharmacist licensed under chapter 18.64 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, or a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW;

(iii) The services the student performs are within the scope of practice of: (A) A physician licensed under this chapter; and (B) the person supervising the student;

(iv) The school in which the student is enrolled verifies the student has demonstrated competency through his or her education and training to perform the services; and

(v) The student provides proof of current malpractice insurance to the volunteer activity organizer prior to performing any services;

(8) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state, however, the performance of such services shall be only pursuant to his or her duties as a trainee;

(9) The practice of medicine by a person who is regularly enrolled in a physician assistant program approved by the commission, however, the performance of such services shall be only pursuant to a regular course of instruction in said program and such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(10) The practice of medicine by a licensed physician assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(11) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(12) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the commission, however, a dentist allowed to administer nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist, and the commission has jurisdiction to discipline a dentist

practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to this chapter and chapter 18.130 RCW;

(13) Emergency lifesaving service rendered by a physician's trained advanced emergency medical (~~(service intermediate life support)~~) technician and paramedic, as defined in RCW 18.71.200, if the emergency lifesaving service is rendered under the responsible supervision and control of a licensed physician;

(14) The provision of clean, intermittent bladder catheterization for students by public school district employees or private school employees as provided for in RCW 18.79.290 and 28A.210.280.

Sec. 4. RCW 18.79.240 and 2005 c 28 s 1 are each amended to read as follows:

(1) In the context of the definition of registered nursing practice and advanced registered nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice registered nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing technicians;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a registered nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in the practice of nursing as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or a bureau, division, or agency thereof, while in the discharge of his or her official duties;

(h) Permitting the measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses for the aid thereof;

(i) Permitting the prescribing or directing the use of, or using, an optical device in connection with ocular exercises, visual training, vision training, or orthoptics;

(j) Permitting the prescribing of contact lenses for, or the fitting and adaptation of contact lenses to, the human eye;

- (k) Prohibiting the performance of routine visual screening;
- (l) Permitting the practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW, respectively;
- (m) Permitting the practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulation of the spine;
- (n) Permitting the practice of podiatric medicine and surgery as defined in chapter 18.22 RCW;
- (o) Permitting the performance of major surgery, except such minor surgery as the commission may have specifically authorized by rule adopted in accordance with chapter 34.05 RCW;
- (p) Permitting the prescribing of controlled substances as defined in Schedule I of the Uniform Controlled Substances Act, chapter 69.50 RCW;
- (q) Prohibiting the determination and pronouncement of death;
- (r) Prohibiting advanced registered nurse practitioners, approved by the commission as certified registered nurse anesthetists from selecting, ordering, or administering controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, consistent with their commission-recognized scope of practice; subject to facility-specific protocols, and subject to a request for certified registered nurse anesthetist anesthesia services issued by a physician licensed under chapter 18.71 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, a dentist licensed under chapter 18.32 RCW, or a podiatric physician and surgeon licensed under chapter 18.22 RCW; the authority to select, order, or administer Schedule II through IV controlled substances being limited to those drugs that are to be directly administered to patients who require anesthesia for diagnostic, operative, obstetrical, or therapeutic procedures in a hospital, clinic, ambulatory surgical facility, or the office of a practitioner licensed under chapter 18.71, 18.22, 18.36, 18.36A, 18.57, 18.57A, or 18.32 RCW; "select" meaning the decision-making process of choosing a drug, dosage, route, and time of administration; and "order" meaning the process of directing licensed individuals pursuant to their statutory authority to directly administer a drug or to dispense, deliver, or distribute a drug for the purpose of direct administration to a patient, under instructions of the certified registered nurse anesthetist. "Protocol" means a statement regarding practice and documentation concerning such items as categories of patients, categories of medications, or categories of procedures rather than detailed case-specific formulas for the practice of nurse anesthesia;
- (s) Prohibiting advanced registered nurse practitioners from ordering or prescribing controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, if and to the extent that doing so is permitted by their scope of practice;
- (t) Prohibiting the practice of registered nursing or advanced registered nursing by a student enrolled in an approved school if:
 - (i) The student performs services without compensation or expectation of compensation as part of a volunteer activity;
 - (ii) The student is under the direct supervision of a registered nurse or advanced registered nurse practitioner licensed under this chapter, a pharmacist licensed under chapter 18.64 RCW, an osteopathic physician and surgeon

licensed under chapter 18.57 RCW, or a physician licensed under chapter 18.71 RCW;

(iii) The services the student performs are within the scope of practice of: (A) The nursing profession for which the student is receiving training; and (B) the person supervising the student;

(iv) The school in which the student is enrolled verifies the student has demonstrated competency through his or her education and training to perform the services; and

(v) The student provides proof of current malpractice insurance to the volunteer activity organizer prior to performing any services.

(2) In the context of the definition of licensed practical nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice practical nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of practical nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing assistants;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting or preventing the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a licensed practical nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in licensed practical nurse practice as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof, while in the discharge of his or her official duties.

Passed by the House March 4, 2019.

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CHAPTER 271

[Engrossed Substitute House Bill 1732]

BIAS-BASED CRIMINAL OFFENSES--HATE CRIMES

AN ACT Relating to identifying and responding to bias-based criminal offenses; amending RCW 9A.36.078, 9A.36.080, 9A.36.083, 2.56.030, 9.94A.030, 9A.46.060, 36.28A.030, 43.43.830,

and 48.18.553; reenacting and amending RCW 9.94A.515; and adding a new section to chapter 43.10 RCW.

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

Sec. 1. RCW 9A.36.078 and 1993 c 127 s 1 are each amended to read as follows:

The legislature finds that crimes and threats against persons because of their race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory (~~handicaps~~) disabilities are serious and increasing. The legislature also finds that crimes and threats are often directed against interracial couples and their children or couples of mixed religions, colors, ancestries, or national origins because of bias and bigotry against the race, color, religion, ancestry, or national origin of one person in the couple or family. The legislature finds that the state interest in preventing crimes and threats motivated by bigotry and bias goes beyond the state interest in preventing other felonies or misdemeanors such as criminal trespass, malicious mischief, assault, or other crimes that are not motivated by hatred, bigotry, and bias, and that prosecution of those other crimes inadequately protects citizens from crimes and threats motivated by bigotry and bias. Therefore, the legislature finds that protection of those citizens from threats of harm due to bias and bigotry is a compelling state interest.

The legislature also finds that in many cases, certain discrete words or symbols are used to threaten the victims. Those discrete words or symbols have historically or traditionally been used to connote hatred or threats towards members of the class of which the victim or a member of the victim's family or household is a member. In particular, the legislature finds that cross burnings historically and traditionally have been used to threaten, terrorize, intimidate, and harass African Americans and their families. Cross burnings often preceded lynchings, murders, burning of homes, and other acts of terror. Further, Nazi swastikas historically and traditionally have been used to threaten, terrorize, intimidate, and harass Jewish people and their families. Swastikas symbolize the massive destruction of the Jewish population, commonly known as the holocaust. Therefore, the legislature finds that any person who burns or attempts to burn a cross or displays a swastika on the property of the victim or burns a cross or displays a swastika as part of a series of acts directed towards a particular person, the person's family or household members, or a particular group, knows or reasonably should know that the cross burning or swastika may create a reasonable fear of harm in the mind of the person, the person's family and household members, or the group.

The legislature also finds that attacks on religious places of worship and threatening defacement of religious texts have increased, as have assaults and attacks on those who visibly self-identify as members of a religious minority, such as by wearing religious head covering or other visible articles of faith. The legislature finds that any person who defaces religious real property with derogatory words, symbols, or items, who places a vandalized or defaced religious item or scripture on the property of a victim, or who attacks or attempts to remove the religious garb or faith-based attire of a victim, knows or reasonably should know that such actions create a reasonable fear of harm in the mind of the victim.

The legislature also finds that a hate crime committed against a victim because of the victim's gender may be identified in the same manner that a hate crime committed against a victim of another protected group is identified. Affirmative indications of hatred towards gender as a class is the predominant factor to consider. Other factors to consider include the perpetrator's use of language, slurs, or symbols expressing hatred towards the victim's gender as a class; the severity of the attack including mutilation of the victim's sexual organs; a history of similar attacks against victims of the same gender by the perpetrator or a history of similar incidents in the same area; a lack of provocation; an absence of any other apparent motivation; and common sense.

The legislature recognizes that, since 2015, Washington state has experienced a sharp increase in malicious harassment offenses, and, in response, the legislature intends to rename the offense to its more commonly understood title of "hate crime offense" and create a multidisciplinary working group to establish recommendations for best practices for identifying and responding to hate crimes.

Sec. 2. RCW 9A.36.080 and 2010 c 119 s 1 are each amended to read as follows:

(1) A person is guilty of ~~((malicious harassment))~~ a hate crime offense if he or she maliciously and intentionally commits one of the following acts because of his or her perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory ~~((handicap))~~ disability:

(a) Causes physical injury to the victim or another person;

(b) Causes physical damage to or destruction of the property of the victim or another person; or

(c) Threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under all the circumstances. For purposes of this section, a "reasonable person" is a reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same gender expression or identity, or the same mental, physical, or sensory ~~((handicap))~~ disability as the victim. Words alone do not constitute ~~((malicious harassment))~~ a hate crime offense unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute ~~((malicious harassment))~~ a hate crime offense if it is apparent to the victim that the person does not have the ability to carry out the threat.

(2) In any prosecution for ~~((malicious harassment))~~ a hate crime offense, unless evidence exists which explains to the trier of fact's satisfaction that the person did not intend to threaten the victim or victims, the trier of fact may infer that the person intended to threaten a specific victim or group of victims because of the person's perception of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory ~~((handicap))~~ disability if the person commits one of the following acts:

(a) Burns a cross on property of a victim who is or whom the actor perceives to be of African American heritage; ~~((or))~~

(b) Defaces property of a victim who is or whom the actor perceives to be of Jewish heritage by defacing the property with a swastika;

(c) Defaces religious real property with words, symbols, or items that are derogatory to persons of the faith associated with the property;

(d) Places a vandalized or defaced religious item or scripture on the property of a victim who is or whom the actor perceives to be of the faith with which that item or scripture is associated;

(e) Damages, destroys, or defaces religious garb or other faith-based attire belonging to the victim or attempts to or successfully removes religious garb or other faith-based attire from the victim's person without the victim's authorization; or

(f) Places a noose on the property of a victim who is or whom the actor perceives to be of a racial or ethnic minority group.

This subsection only applies to the creation of a reasonable inference for evidentiary purposes. This subsection does not restrict the state's ability to prosecute a person under subsection (1) of this section when the facts of a particular case do not fall within (a) ~~((or (b)))~~ through (f) of this subsection.

(3) It is not a defense that the accused was mistaken that the victim was a member of a certain race, color, religion, ancestry, national origin, gender, or sexual orientation, had a particular gender expression or identity, or had a mental, physical, or sensory ~~((handicap))~~ disability.

(4) Evidence of expressions or associations of the accused may not be introduced as substantive evidence at trial unless the evidence specifically relates to the crime charged. Nothing in this chapter shall affect the rules of evidence governing impeachment of a witness.

(5) Every person who commits another crime during the commission of a crime under this section may be punished and prosecuted for the other crime separately.

(6) For the purposes of this section:

(a) "Gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

(b) "Sexual orientation" ~~((has the same meaning as in RCW 49.60.040))~~ means heterosexuality, homosexuality, or bisexuality.

~~((b))~~ (c) "Threat" means to communicate, directly or indirectly, the intent to:

(i) Cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) Cause physical damage immediately or in the future to the property of a person threatened or that of any other person.

(7) ~~((Malicious harassment))~~ Commission of a hate crime offense is a class C felony.

(8) The penalties provided in this section for ~~((malicious harassment))~~ hate crime offenses do not preclude the victims from seeking any other remedies otherwise available under law.

(9) Nothing in this section confers or expands any civil rights or protections to any group or class identified under this section, beyond those rights or

protections that exist under the federal or state Constitution or the civil laws of the state of Washington.

Sec. 3. RCW 9A.36.083 and 1993 c 127 s 3 are each amended to read as follows:

In addition to the criminal penalty provided in RCW 9A.36.080 for committing a ~~((crime of malicious harassment))~~ hate crime offense, the victim may bring a civil cause of action for ~~((malicious harassment))~~ the hate crime offense against the ~~((harasser))~~ person who committed the offense. A person may be liable to the victim of ~~((malicious harassment))~~ the hate crime offense for actual damages, punitive damages of up to ~~((ten))~~ one hundred thousand dollars, and reasonable attorneys' fees and costs incurred in bringing the action.

NEW SECTION. Sec. 4. A new section is added to chapter 43.10 RCW to read as follows:

(1) The office of the attorney general must, by September 1, 2019, coordinate and convene a multidisciplinary hate crime advisory working group for the purpose of developing strategies toward raising awareness of and appropriate responses to hate crime offenses and hate incidents. The working group must undertake its work with a view towards restorative justice.

(2) The group's membership must include:

(a) Four legislators, one appointed by each of the two largest caucuses of the senate and one appointed by each of the two largest caucuses of the house of representatives;

(b) Six members appointed by the governor from organizations representing groups protected under RCW 9A.36.080;

(c) One member appointed by the governor representing law enforcement;

(d) One member appointed by the governor representing prosecutors;

(e) One member appointed by the governor that is from a local organization with national expertise legislating against, tracking, and responding to hate crimes and hate incidents;

(f) One member appointed by the governor representing K-12 educators; and

(g) One member representing the attorney general's office.

(3) The work group must develop recommended best practices for:

(a) Preventing hate crimes and hate incidents, especially those occurring in public K-12 schools and in the workplace, through public awareness and antibias campaigns;

(b) Increasing identification and reporting of hate crimes and hate incidents, including recommendations for standardization of data collection and reporting;

(c) Strengthening law enforcement, prosecutorial, and public K-12 school responses to hate crime offenses and hate incidents through enhanced training and other measures; and

(d) Supporting victims of hate crime offenses and hate incidents, and in particular, ways of strengthening law enforcement, health care, and educational collaboration with, and victim connection to, community advocacy and support organizations.

(4) The working group is encouraged to solicit participation and feedback from nonmember groups and individuals with relevant experience, as needed.

(5) The working group must hold at least four meetings. By July 1, 2020, the office of the attorney general must report the working group's recommendations to the governor and the legislature, in compliance with RCW 43.01.036.

Sec. 5. RCW 2.56.030 and 2009 c 479 s 2 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district court judge positions under an objective workload analysis. The results of the objective workload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that an objective workload analysis become the basis for creating additional district and superior court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of (~~crimes of malicious harassment~~) hate crime offenses, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of (~~malicious harassment~~) hate crime offense victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21) Administer the family and juvenile court improvement grant program;

(22)(a) Administer and distribute amounts appropriated under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met;

(23) Subject to the availability of funds specifically appropriated therefor, assist courts in the development and implementation of language assistance plans required under RCW 2.43.090.

Sec. 6. RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "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.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions,

and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, 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.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), 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)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public

agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(33) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) 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;

(r) 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;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, 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 most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(34) "Nonviolent offense" means an offense which is not a violent offense.

(35) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(37) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) (~~Malicious Harassment~~) Hate Crime (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

- (xii) Burglary 2 (RCW 9A.52.030);
- (xiii) Malicious Mischief 1 (RCW 9A.48.070);
- (xiv) Malicious Mischief 2 (RCW 9A.48.080);
- (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
- (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
- (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
- (xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);
- (xix) Extortion 1 (RCW 9A.56.120);
- (xx) Extortion 2 (RCW 9A.56.130);
- (xxi) Intimidating a Witness (RCW 9A.72.110);
- (xxii) Tampering with a Witness (RCW 9A.72.120);
- (xxiii) Reckless Endangerment (RCW 9A.36.050);
- (xxiv) Coercion (RCW 9A.36.070);
- (xxv) Harassment (RCW 9A.46.020); or
- (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(38) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (38)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second

degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(41) "Public school" has the same meaning as in RCW 28A.150.010.

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the

influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) 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 violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(55) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) 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; and

(xiv) 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;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(56) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(57) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-

world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(58) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 7. RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are each reenacted and amended to read as follows:

TABLE 2
 CRIMES INCLUDED WITHIN EACH
 SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)
 Malicious explosion 1 (RCW 70.74.280(1))
 Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)
 Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))
 Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
 Assault of a Child 1 (RCW 9A.36.120)
 Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
 Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
 Rape 1 (RCW 9A.44.040)
 Rape of a Child 1 (RCW 9A.44.073)
 Trafficking 2 (RCW 9A.40.100(3))
- XI Manslaughter 1 (RCW 9A.32.060)
 Rape 2 (RCW 9A.44.050)
 Rape of a Child 2 (RCW 9A.44.076)
 Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
 Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

- X Child Molestation 1 (RCW 9A.44.083)
 - Criminal Mistreatment 1 (RCW 9A.42.020)
 - Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
 - Kidnapping 1 (RCW 9A.40.020)
 - Leading Organized Crime (RCW 9A.82.060(1)(a))
 - Malicious explosion 3 (RCW 70.74.280(3))
 - Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
 - Assault of a Child 2 (RCW 9A.36.130)
 - Explosive devices prohibited (RCW 70.74.180)
 - Hit and Run—Death (RCW 46.52.020(4)(a))
 - Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
 - Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
 - Malicious placement of an explosive 2 (RCW 70.74.270(2))
 - Robbery 1 (RCW 9A.56.200)
 - Sexual Exploitation (RCW 9.68A.040)
- VIII Arson 1 (RCW 9A.48.020)
 - Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
 - Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
 - Manslaughter 2 (RCW 9A.32.070)
 - Promoting Prostitution 1 (RCW 9A.88.070)
 - Theft of Ammonia (RCW 69.55.010)

- VII Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
- Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
- Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))

- Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Air bag diagnostic systems (RCW 46.37.660(2)(c))
- Air bag replacement requirements (RCW 46.37.660(1)(c))
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Dealing in Depictions of Minor Engaged
in Sexually Explicit Conduct 2 (RCW
9.68A.050(2))

Domestic Violence Court Order Violation
(RCW 10.99.040, 10.99.050,
26.09.300, 26.10.220, ((~~26.26.138~~))
26.26B.050, 26.50.110, 26.52.070, or
74.34.145)

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW
9A.82.020)

Extortionate Means to Collect Extensions
of Credit (RCW 9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Manufacture or import counterfeit,
nonfunctional, damaged, or
previously deployed air bag (RCW
46.37.650(1)(c))

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW
9.94.070)

Possession of a Stolen Firearm (RCW
9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1 (RCW
9A.76.070)

Sell, install, or reinstall counterfeit,
nonfunctional, damaged, or
previously deployed airbag (RCW
46.37.650(2)(c))

Sending, Bringing into State Depictions of
Minor Engaged in Sexually Explicit
Conduct 2 (RCW 9.68A.060(2))

Sexual Misconduct with a Minor 1 (RCW
9A.44.093)

Sexually Violating Human Remains
(RCW 9A.44.105)

Stalking (RCW 9A.46.110)

Taking Motor Vehicle Without
Permission 1 (RCW 9A.56.070)

- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Driving While Under the Influence (RCW 46.61.502(6))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hate Crime (RCW 9A.36.080)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- ~~((Malicious Harassment (RCW 9A.36.080)))~~
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)

- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Organized Retail Theft 1 (RCW 9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun, Bump-fire Stock, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful Misbranding of ((Food)) Fish or Shellfish 1 (RCW 77.140.060(3))
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
- Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
- Computer Trespass 1 (RCW 9A.90.040)
- Counterfeiting (RCW 9.16.035(3))
- Electronic Data Service Interference (RCW 9A.90.060)
- Electronic Data Tampering 1 (RCW 9A.90.080)
- Electronic Data Theft (RCW 9A.90.100)
- Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
- Escape from Community Custody (RCW 72.09.310)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)

Health Care False Claims (RCW
48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial
Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

Organized Retail Theft 2 (RCW
9A.56.350(3))

Possession of Stolen Property 1 (RCW
9A.56.150)

Possession of a Stolen Vehicle (RCW
9A.56.068)

Retail Theft with Special Circumstances 2
(RCW 9A.56.360(3))

Scrap Processing, Recycling, or
Supplying Without a License (second
or subsequent offense) (RCW
19.290.100)

Theft 1 (RCW 9A.56.030)

Theft of a Motor Vehicle (RCW
9A.56.065)

Theft of Rental, Leased, Lease-purchased,
or Loaned Property (valued at five
thousand dollars or more) (RCW
9A.56.096(5)(a))

Theft with the Intent to Resell 2 (RCW
9A.56.340(3))

Trafficking in Insurance Claims (RCW
48.30A.015)

Unlawful factoring of a credit card or
payment card transaction (RCW
9A.56.290(4)(a))

Unlawful Participation of Non-Indians in
Indian Fishery (RCW 77.15.570(2))

Unlawful Practice of Law (RCW
2.48.180)

Unlawful Purchase or Use of a License
(RCW 77.15.650(3)(b))

Unlawful Trafficking in Fish, Shellfish, or
Wildlife 2 (RCW 77.15.260(3)(a))

- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism 1 (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
- Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))
- Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at seven hundred fifty dollars or more but less than five thousand dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
- Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of
Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment
Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal
Identification Device (RCW
9A.56.320)

Unlawful Production of Payment
Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing,
or Placing Deleterious Exotic
Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps
(RCW 9.91.142)

Unlawful Use of Food Stamps (RCW
9.91.144)

Unlawful Use of Net to Take Fish 1
(RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic
Animal Species (RCW 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or
Time 1 (RCW 77.15.550(3)(b))

Sec. 8. RCW 9A.46.060 and 2006 c 138 s 21 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- (1) Harassment (RCW 9A.46.020);
- (2) (~~Malicious harassment~~) Hate crime (RCW 9A.36.080);
- (3) Telephone harassment (RCW 9.61.230);
- (4) Assault in the first degree (RCW 9A.36.011);
- (5) Assault of a child in the first degree (RCW 9A.36.120);
- (6) Assault in the second degree (RCW 9A.36.021);
- (7) Assault of a child in the second degree (RCW 9A.36.130);
- (8) Assault in the fourth degree (RCW 9A.36.041);
- (9) Reckless endangerment (RCW 9A.36.050);
- (10) Extortion in the first degree (RCW 9A.56.120);
- (11) Extortion in the second degree (RCW 9A.56.130);
- (12) Coercion (RCW 9A.36.070);
- (13) Burglary in the first degree (RCW 9A.52.020);
- (14) Burglary in the second degree (RCW 9A.52.030);
- (15) Criminal trespass in the first degree (RCW 9A.52.070);
- (16) Criminal trespass in the second degree (RCW 9A.52.080);
- (17) Malicious mischief in the first degree (RCW 9A.48.070);

- (18) Malicious mischief in the second degree (RCW 9A.48.080);
- (19) Malicious mischief in the third degree (RCW 9A.48.090);
- (20) Kidnapping in the first degree (RCW 9A.40.020);
- (21) Kidnapping in the second degree (RCW 9A.40.030);
- (22) Unlawful imprisonment (RCW 9A.40.040);
- (23) Rape in the first degree (RCW 9A.44.040);
- (24) Rape in the second degree (RCW 9A.44.050);
- (25) Rape in the third degree (RCW 9A.44.060);
- (26) Indecent liberties (RCW 9A.44.100);
- (27) Rape of a child in the first degree (RCW 9A.44.073);
- (28) Rape of a child in the second degree (RCW 9A.44.076);
- (29) Rape of a child in the third degree (RCW 9A.44.079);
- (30) Child molestation in the first degree (RCW 9A.44.083);
- (31) Child molestation in the second degree (RCW 9A.44.086);
- (32) Child molestation in the third degree (RCW 9A.44.089);
- (33) Stalking (RCW 9A.46.110);
- (34) Cyberstalking (RCW 9.61.260);
- (35) Residential burglary (RCW 9A.52.025);
- (36) Violation of a temporary, permanent, or final protective order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW;
- (37) Unlawful discharge of a laser in the first degree (RCW 9A.49.020); and
- (38) Unlawful discharge of a laser in the second degree (RCW 9A.49.030).

Sec. 9. RCW 36.28A.030 and 1993 c 127 s 4 are each amended to read as follows:

(1) The Washington association of sheriffs and police chiefs shall establish and maintain a central repository for the collection and classification of information regarding violations of RCW 9A.36.080. Upon establishing such a repository, the association shall develop a procedure to monitor, record, and classify information relating to violations of RCW 9A.36.080 and any other crimes of bigotry or bias apparently directed against other persons because the people committing the crimes perceived that their victims were of a particular race, color, religion, ancestry, national origin, gender, sexual orientation, had a particular gender expression or identity, or had a mental, physical, or sensory ~~((handicap))~~ disability.

(2) All local law enforcement agencies shall report monthly to the association concerning all violations of RCW 9A.36.080 and any other crimes of bigotry or bias in such form and in such manner as prescribed by rules adopted by the association. Agency participation in the association's reporting programs, with regard to the specific data requirements associated with violations of RCW 9A.36.080 and any other crimes of bigotry or bias, shall be deemed to meet agency reporting requirements. The association must summarize the information received and file an annual report with the governor and the senate law and justice committee and the house of representatives judiciary committee.

(3) The association shall disseminate the information according to the provisions of chapters 10.97 and 10.98 RCW, and all other confidentiality requirements imposed by federal or Washington law.

Sec. 10. RCW 43.43.830 and 2017 c 272 s 5 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.845.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

(2) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(3) "Business or organization" means a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

(4) "Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

(5) "Client" or "resident" means a child, person with developmental disabilities, or vulnerable adult applying for housing assistance from a business or organization.

(6) "Conviction record" means "conviction record" information as defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It

does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(7) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; fourth degree assault (if a violation of RCW 9A.36.041(3)); first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; (~~malicious harassment~~) hate crime; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; commercial sexual abuse of a minor; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(8) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(9) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Health care facility" means a nursing home licensed under chapter 18.51 RCW, (~~a facility~~) an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(12) "Peer counselor" means a nonprofessional person who has equal standing with another person, providing advice on a topic about which the nonprofessional person is more experienced or knowledgeable, and who is a counselor for a peer counseling program that contracts with or is otherwise approved by the department, another state or local agency, or the court.

(13) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

With regard to peer counselors, "unsupervised" does not include incidental contact with children under age sixteen at the location at which the peer counseling is taking place. "Incidental contact" means minor or casual contact

with a child in an area accessible to and within visual or auditory range of others. It could include passing a child while walking down a hallway but would not include being alone with a child for any period of time in a closed room or office.

(14) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

Sec. 11. RCW 48.18.553 and 2003 c 117 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Insured" means a current policyholder or a person or entity that is covered under the insurance policy.

(b) (~~("Malicious harassment")~~) "Hate crime offense" has the same meaning as RCW 9A.36.080. Under this section, the perpetrator does not have to be identified for (~~(an act of malicious harassment)~~) a hate crime offense to have occurred.

(c) "Underwriting action" means an insurer:

(i) Cancels or refuses to renew an insurance policy; or

(ii) Changes the terms or benefits in an insurance policy.

(2) This section applies to property insurance policies if the insured is:

(a) An individual;

(b) A religious organization;

(c) An educational organization; or

(d) Any other nonprofit organization that is organized and operated for religious, charitable, or educational purposes.

(3) An insurer may not take an underwriting action on a policy described in subsection (2) of this section because an insured has made one or more insurance claims for any loss that occurred during the preceding sixty months that is the result of (~~(malicious harassment)~~) a hate crime offense. An insurer may take an underwriting action due to other factors that are not prohibited by this subsection.

(4) If an insured sustains a loss that is the result of (~~(malicious harassment)~~) a hate crime offense, the insured must file a report with the police or other law enforcement authority within thirty days of discovery of the incident, and a law enforcement authority must determine that a crime has occurred. The report must contain sufficient information to provide an insurer with reasonable notice that the loss was the result of (~~(malicious harassment)~~) a hate crime offense. The insured has a duty to cooperate with any law enforcement official or insurer investigation. (~~(For incidents of malicious harassment occurring prior to July 27, 2003, the insured must file the report within six months of the discovery of the incident.)~~)

(5) Annually, each insurer must report underwriting actions to the commissioner if the insurer has taken an underwriting action against any insured who has filed a claim during the preceding sixty months that was the result of (~~(malicious harassment)~~) a hate crime offense. The report must include the policy number, name of the insured, location of the property, and the reason for the underwriting action.

Passed by the House April 18, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 272

[Substitute House Bill 1734]

COLLEGE IN THE HIGH SCHOOL PROGRAMS--ACCREDITATION

AN ACT Relating to accreditation standards for college in the high school programs; and adding a new section to chapter 28B.10 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) To establish a uniform standard by which concurrent enrollment programs and professional development activities may be measured, any college or university offering concurrent enrollment program courses at a public high school, or college in the high school programs under RCW 28A.600.290, must receive accreditation by a national accrediting body for concurrent enrollment by the 2027-28 school year.

(2) Any college or university engaged in concurrent enrollment program courses at a public high school, or college in the high school programs under RCW 28A.600.290, during or before the 2019-20 academic year that are not accredited by a national accrediting body for concurrent enrollment must continue to meet the same quality and eligibility standards and obtain approval in a manner consistent with the procedure established by rules adopted under RCW 28A.600.290 for the college in the high school program until the program is accredited by a national accrediting body for concurrent enrollment.

(3) After the 2027-28 school year, any college or university with concurrent enrollment program courses in place at a public high school, or college in the high school programs under RCW 28A.600.290, during or before the 2019-20 academic year that have not been accredited in accordance with subsection (1) of this section or do not have an application pending further action by the accrediting body under subsection (1) of this section may not offer a concurrent enrollment program course at a public high school or college in the high school program under RCW 28A.600.290.

(4) New college and university concurrent enrollment program courses that are implemented after the 2019-20 academic year have seven years from the beginning of the first term of classes to submit an application for accreditation for review by a national accrediting body for concurrent enrollment to comply with this section.

(5) All colleges and universities are encouraged to provide institutional resources to support the transition to accreditation, including professional development, engage with national associations focused on concurrent enrollment accreditation, and collaboration with the state board for community and technical colleges or an organization that represents the public, four-year universities, and colleges.

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

(a) "Concurrent enrollment program" means a partnership between K-12 schools and postsecondary education institutions through which credit-bearing college courses offered by public or private institutions of higher education and taught by appropriately qualified high school teachers are taken in high school by high school students who have not yet received the credits required for the award of a high school diploma, and for which earned credits are recorded on a college or university transcript. "Concurrent enrollment program" does not include programs under RCW 28B.50.531 or the running start program.

(b) "Public high school" means a high school that is a public school as defined in RCW 28A.150.010.

Passed by the House March 11, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor May 7, 2019.

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CHAPTER 273

[Substitute House Bill 1746]

COMMERCIAL OFFICE SPACE DEVELOPMENT--TAX INCENTIVES

AN ACT Relating to incentivizing the development of commercial office space in cities in a county with a population of less than one million five hundred thousand; amending RCW 81.104.170; adding a new section to chapter 82.14 RCW; adding a new chapter to Title 35 RCW; 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 cost of developing high-quality, commercial office space is prohibitive in cities located outside of a major metropolitan area. The legislature finds these cities plan to locate commercial office space within those urban centers. The legislature also finds that solely planning for commercial office space within urban centers is inadequate and an incentive should be created to stimulate commercial office space development in urban centers outside major metropolitan areas. The legislature intends to provide these cities with local options to incentivize the development of commercial office space in urban centers with access to transit, transportation systems, and other amenities.

NEW SECTION. Sec. 2. A governing authority of a city may designate a commercial office space development area. Within the area, the city may:

(1) Adopt a local sales and use tax remittance program to incentivize the development of commercial office space; and

(2) Establish a local property tax reinvestment program to make public improvements that incentivize the development of commercial office space.

NEW SECTION. Sec. 3. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial office space" means a high quality building or buildings in the local market, as determined by a city's governing authority. High quality must be reflected in the finishes, construction, and infrastructure of the project building. The building or buildings must be at least fifty thousand square feet,

and at least three stories. The building must be centrally located in a city, provide close access to available public transportation and freeways, be managed professionally, and offer amenities and advanced technology options to tenants.

(2) "Commercial office space development area" means an area that has been designated by the city legislative authority as a commercial office space development area. Each area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the commercial office space development area. The commercial office space development area or areas within a city cannot contain more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the city at the time the area is established.

(3) "County" means a county with a population of less than one million five hundred thousand.

(4) "Family living wage job" means a job with a wage that is sufficient for raising a family. A family living wage job must have an average wage of eighteen dollars an hour or more, working two thousand eighty hours per year, as adjusted annually by the consumer price index. The family living wage may be increased by the local authority based on regional factors and wage conditions.

(5) "Operationally complete" means that a certificate of occupancy has been issued for the building.

(6) "Public improvement" means infrastructure improvements to be owned by a public entity within the commercial office space development area that include:

- (a) Street, road, bridge, and rail construction and maintenance;
- (b) Water and sewer system construction and improvements;
- (c) Sidewalks, streetlights, landscaping, and streetscaping;
- (d) Parking, terminal, and dock facilities;
- (e) Park and ride facilities of a transit authority;
- (f) Park facilities, recreational areas, and environmental remediation;
- (g) Stormwater and drainage management systems;
- (h) Seismic improvements to buildings eligible for or eligible for listing in the Washington state register of historic places (RCW 27.34.220) or the national register of historic places as defined in the national historic preservation act of 1966 (Title I, Sec. 101, P.L. 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended;

- (i) Electric, gas, fiber, and other utility infrastructures; and
- (j) Expenditures for any of the following purposes:
 - (i) Providing environmental analysis, professional management, planning, and promotion within the commercial office space development area; and
 - (ii) Providing maintenance and security for common or public areas in the commercial office space development area.

(7) "Public improvement costs" means the costs of:

- (a) Design; planning; acquisition, including land acquisition; site preparation, including land clearing; construction; reconstruction; rehabilitation; improvements; and installation of public improvements;
- (b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;
- (c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction; legal, and other professional services; taxes; insurance; principal and interest costs on general indebtedness issued to finance public improvements; and any necessary reserves for general indebtedness; and

(e) 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 use of funds deposited into the commercial office development public improvement fund.

(8) "Qualifying project" means new construction or rehabilitation of a building or group of buildings intended for use as commercial office space. A "qualifying project" may include mixed-use buildings, not solely intended to be used as office space, but does not include any portion of a project intended for residential use or noncommercial use. A "qualifying project" may include new construction, or rehabilitation of an existing building, which included an area intended to be used for childcare facilities at or near the commercial office space. "Qualifying project" does not include the land associated with the new construction or rehabilitation.

(9) "Rehabilitation" and "rehabilitation improvements" means modifications to an existing building or buildings made to achieve substantial improvements such that the building or buildings can be categorized as commercial office space.

(10) "Rehabilitation improvements" means modifications to an existing building or buildings made to achieve substantial improvements such that the building or buildings can be categorized as commercial office space.

(11) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

(a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, and governmental agencies;

(b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

(c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office use, or both commercial and office use.

NEW SECTION. Sec. 4. (1) In order for a city to approve a qualifying project to receive a sales and use tax remittance and participate in a local property tax reinvestment program, the city legislative authority must adopt an ordinance designating a commercial office space development area or areas. In the ordinance, the city legislative authority must:

(a) Outline the boundaries of the commercial office space development area or areas, consistent with the definitions of this chapter;

(b) Find that the area is wholly within an urban center;

(c) Find that the area lacks sufficient available, desirable, high-quality, and convenient commercial office space to provide family living wage jobs in the urban center;

(d) Outline standards and guidelines consistent with section 5 of this act to accept and approve applications for qualifying projects to be considered for a local sales and use tax remittance or a property tax reinvestment program; and

(e) Establish a commercial office development public improvement fund in which to deposit property tax reinvestment revenues.

(2) The city legislative authority must hold a public hearing on the ordinance establishing the commercial office space development area or areas. The city legislative authority must give notice of a hearing held under this section by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city where the proposed commercial office space development area or areas would be located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a commercial office space development area.

NEW SECTION. Sec. 5. (1) In order to approve the sales and use tax remittance and property tax reinvestment for a qualifying project under section 4 of this act, an owner of a qualifying project must, in coordination with the city, submit an application to the city consistent with the standards and guidelines provided in section 4 of this act. Additionally, the application must include:

(a) Whether the qualifying project is located within a commercial office space development area, in accordance with an adopted ordinance under section 4 of this act;

(b) Whether the qualifying project meets the definition of a qualifying project;

(c) The number of family living wage jobs estimated to be generated by the qualifying project;

(d) A description of the qualifying project, including a physical description of proposed building or buildings including estimated square footage, number of floors, and a list of features and amenities;

(e) The cost of construction or rehabilitation, and length of time that the qualifying project will be under construction;

(f) Whether the qualifying project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved; and

(g) A statement that the qualifying project is not anticipated to be used for the purpose of relocating a business from outside of the commercial office space development area, but within the state, to within the commercial office space development area. This does not exclude the incentives authorized under this chapter and section 11 of this act from being used for the expansion of a business, including the development of additional offices or satellite facilities.

(2) If the project applicant is seeking a sales and use tax remittance, the application must also include:

(a) A written agreement for the use of the local sales and use tax remittance from any taxing authority that imposes a sales or use tax under chapter 82.14 RCW or RCW 81.104.170. The agreement must be authorized by the governing body of such participating taxing authorities. If a taxing authority does not provide a written agreement, the sales and use tax for that taxing authority may not be remitted and the revenue may not be estimated in the application;

(b) An estimate of the amount of local sales and use tax revenue that will be remitted to a taxpayer;

(c) The approximate date that the local sales and use tax revenue will be remitted to a taxpayer; and

(d) The criteria under this section by which a qualifying project can later receive certification under section 11(4) of this act confirming that a taxpayer is eligible for the remittance.

(3) If the city intends to approve the qualifying project for a property tax reinvestment, the application must also include:

(a) A written agreement of the participation of any taxing authority that collects a local property tax allocation. The agreement must be authorized by the governing body of such participating local taxing authorities. If a taxing authority does not provide written agreement, the local property tax for that taxing authority may not be remitted to the city legislative authority that established a commercial office development public improvement fund;

(b) An estimated amount of property tax to be deposited into a commercial office development public improvement fund resulting from the qualifying project; and

(c) A prioritized list of public improvements that support the development of the qualifying project, and the estimated public improvement costs.

NEW SECTION. Sec. 6. (1) The duly authorized administrative official or committee of the city may approve the application if it finds that:

(a) The proposed qualifying project meets the criteria as defined by the city in section 4 of this act;

(b) The proposed qualifying project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;

(c) The owner has complied with all standards and guidelines adopted by the city in section 4 of this act; and

(d) The site is located in a commercial office space development area that has been designated by the city legislative authority in accordance with the procedures and guidelines indicated in section 4 of this act.

(2) If the application is approved, the city must issue the owner of the property a conditional certificate of acceptance of the project for the sales and use tax remittance and participation in a property tax reinvestment program.

(3) If the application is denied by the authorized administrative official or committee authorized by the city legislative authority, the deciding administrative official or committee must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(4) Upon denial by a duly authorized administrative official or committee, an applicant may appeal the denial to the city legislative authority within thirty days after receipt of the denial. The appeal before the governing authority must be based upon the record made before the administrative official or committee with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official's or committee's decision. The decision of the city legislative authority in denying or approving the application is final.

NEW SECTION. Sec. 7. (1) Once the city approves an application for a qualifying project to participate in a property tax reinvestment program, the city must deposit into a commercial office development public improvement fund, the equivalent of the city's share of the ad valorem property taxation on the value of new construction and rehabilitation improvements of real property for qualifying projects under this chapter for a period of ten successive years beginning January 1st of the calendar year immediately following the calendar year in which the application is initially approved.

(2) For a period of ten successive years beginning January 1st of the calendar year immediately following the calendar year in which the application is initially approved, taxing districts participating under this section that provide a written agreement under section 5 of this act must transfer to the city an amount equivalent to the portion of the taxing district's ad valorem property tax on the value of new construction and rehabilitation improvements of real property for qualifying projects for the city to deposit into a commercial office development public improvement fund.

NEW SECTION. Sec. 8. (1) The city may only make expenditures from the commercial office development public improvement fund that:

(a) Are to construct the public improvement that was identified in the approved application, requesting the property tax reinvestment submitted under section 5 of this act and approved under section 6 of this act;

(b) Transfer funding to the project applicant to construct the public improvement and transfer ownership of the public improvement to a public agency; and

(c) Meet any additional criteria established in an ordinance adopted under section 4 of this act.

(2) The city and the project applicant must enter into a written agreement outlining the specifics of the public improvement, associated public improvement costs, responsible parties, and any other information required by the city.

NEW SECTION. Sec. 9. If a qualifying project participating in the property tax reinvestment program under this chapter changes ownership, the property continues to qualify for the reinvestment, if the new owner complies with all of the application requirements, procedures, terms, conditions, and reporting requirements under this chapter, and meets all of the criteria established by the city to which the application was submitted under this chapter.

NEW SECTION. Sec. 10. (1) The joint legislative audit and review committee must study the effectiveness of the local sales and use tax remittance and the local property tax reinvestment programs authorized in this chapter, and submit a report as provided in subsection (3) of this section.

(2) The report must include, but is not limited to, an assessment of the local sales and use tax remittance and the property tax reinvestment programs authorized under this chapter and an evaluation of:

(a) The availability of quality office space;

(b) The effects on affordable housing;

(c) The effects on transportation, traffic congestion, and greenhouse gas emissions; and

(d) Job creation.

(3) By October 1, 2028, and in compliance with RCW 43.01.036, the joint legislative audit and review committee must submit to the appropriate committees of the legislature a final report with their findings and recommendations under this section.

(4) This section expires December 31, 2028.

NEW SECTION. Sec. 11. A new section is added to chapter 82.14 RCW to read as follows:

(1) Subject to the requirements of chapter 35,--- RCW (the new chapter created in section 12 of this act) and RCW 81.104.170, a project is eligible for a sales and use tax remittance under the authority of this chapter on:

(a) The sale of or charge made for labor and services rendered in respect to construction or rehabilitation of a qualifying project located in a city; and

(b) The sales or use of tangible personal property that will be incorporated as an ingredient or component of a qualifying project located in a city during the course of the constructing or rehabilitating.

(2)(a) A qualifying project owner claiming a remittance under this section must pay all applicable state and local sales and use taxes imposed or authorized under RCW 82.08.020, 82.12.020, and this chapter on all purchases and uses qualifying for the remittance.

(b) The amount of the remittance is one hundred percent of the local sales and use taxes paid under an ordinance enacted under the authority of this chapter for purchases or uses qualifying under subsection (1) of this section, if the taxing authorities imposing taxes under the authority of this chapter have authorized the use of the remittance to the city legislative authority as provided under section 6 of this act.

(3) After the qualifying project has been operationally complete for eighteen months, but not more than thirty-six months, and after all local sales and use taxes for purchases and uses qualifying under subsection (1) of this section have been paid, a qualifying project owner who submits an application for a building permit for that qualifying project prior to July 1, 2027, may apply to the department for a remittance of local sales and use taxes.

(4) A qualifying project owner requesting a remittance under this section must obtain certification from the governing authority of a city verifying that the qualifying project has satisfied the criteria in section 6 of this act.

(5) A qualifying project owner must specify the amount of exempted tax claimed and the qualifying purchases or uses for which the exemption is claimed. The qualifying project owner must retain, in adequate detail, records to enable the department to determine whether the qualifying project owner is entitled to an exemption under this section, including invoices, proof of tax paid, and construction contracts.

(6) The department must determine eligibility under this section based on information provided by the qualifying project owner, which is subject to audit verification by the department.

(7)(a) A person otherwise eligible for a remittance under this section that transfers the ownership of the qualifying project before the requirements in subsection (3) of this section are met may assign the right to the remittance under this section to the subsequent owner of the qualifying project.

(b) Persons applying for the remittance as an assignee must provide the department the following documentation in a form and manner as provided by the department:

- (i) The agreement that transfers the right to the remittance to the assignee;
 - (ii) Proof of payment of sales and use tax on the qualifying project; and
 - (iii) Any other documentation the department requires.
- (8) The definitions in section 3 of this act apply to this section.

Sec. 12. RCW 81.104.170 and 2015 3rd sp.s. c 44 s 320 are each amended to read as follows:

(1) Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, high capacity transportation corridor areas, and regional transit authorities may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter, solely for the purpose of providing high capacity transportation service.

(2) The tax authorized pursuant to this section is in addition to the tax authorized by RCW 82.14.030 and must be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district.

(a) Except for the tax imposed under (b) of this subsection by regional transit authorities that include a county with a population of more than one million five hundred thousand, the maximum rate of such tax must be approved by the voters and may not exceed 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). The maximum rate of such tax that may be imposed may not exceed nine-tenths of one percent in any county that imposes a tax under RCW 82.14.340, or within a regional transit authority if any county within the authority imposes a tax under RCW 82.14.340.

(b) The maximum rate of such tax that may be imposed by a regional transit authority that includes a county with a population of more than one million five hundred thousand must be approved by the voters and may not exceed 1.4 percent. If a regional transit authority imposes the tax authorized under this subsection (2)(b) in excess of 0.9 percent, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess.

(3)(a) The exemptions in RCW 82.08.820 and 82.12.820 are for the state portion of the sales and use tax and do not extend to the tax authorized in this section.

(b) The exemptions in RCW 82.08.962 and 82.12.962 are for the state and local sales and use taxes and include the tax authorized by this section.

(c) The exemptions in section 11 of this act are for the local sales and use taxes and include the tax authorized by this section.

NEW SECTION. Sec. 13. Sections 1 through 10 of this act constitute a new chapter in Title 35 RCW.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 274

[House Bill 1803]

MINIMUM NUMBER OF SCHOOL DAYS--NUMBER OF WAIVERS AUTHORIZED

AN ACT Relating to increasing the number of school districts that may be authorized to reduce the minimum number of required school days in a school year; amending RCW 28A.150.222; and declaring an emergency.

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

Sec. 1. RCW 28A.150.222 and 2018 c 177 s 503 are each amended to read as follows:

(1) In addition to waivers authorized under RCW 28A.300.750, the superintendent of public instruction, in accordance with the criteria in subsection (2) of this section and criteria adopted by the state board of education under subsection (3) of this section, may grant waivers of the requirement for a one hundred eighty-day school year under RCW 28A.150.220 to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement under RCW 28A.150.220 that school districts offer minimum instructional hours may not be waived.

(2) A school district seeking a waiver under this section must submit an application to the superintendent of public instruction that includes:

(a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;

(b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days;

(c) An explanation of how monetary savings from the proposal will be redirected to support student learning;

(d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;

(e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;

(f) An explanation of the impact on employees in education support positions and the ability to recruit and retain employees in education support positions;

(g) An explanation of the impact on students whose parents work during the missed school day; and

(h) Other information that the superintendent of public instruction may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt rules establishing the criteria to evaluate waiver requests under this section. A waiver may be effective for up to three years and may be renewed for subsequent periods of three or fewer years. After each school year in which a waiver has been granted under this section, the superintendent of public instruction must analyze empirical evidence to determine whether the reduction is affecting student learning. If the

superintendent of public instruction determines that student learning is adversely affected, the school district must discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the superintendent of public instruction's determination.

(4) The superintendent of public instruction may grant waivers authorized under this section to ~~((five))~~ ten or fewer school districts with student populations of less than five hundred students. Of the ~~((five))~~ ten waivers that may be granted, two must be reserved for districts with student populations of less than one hundred fifty students.

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 House April 18, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 275

[Engrossed Substitute House Bill 1916]

CHILD SUPPORT SERVICES--VARIOUS PROVISIONS

AN ACT Relating to improving the delivery of child support services to families by increasing flexibility and efficiency; and amending RCW 26.19.025, 26.09.170, 74.20A.059, and 74.20.040.

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

PART I

CHILD SUPPORT GUIDELINES

Sec. 1. RCW 26.19.025 and 2011 c 21 s 2 are each amended to read as follows:

(1) Beginning in 2011 and every four years thereafter, the division of child support shall convene a work group to review the child support guidelines and the child support review report ~~((prepared under RCW 26.19.026 and 26.18.210))~~ described in subsection (7) of this section, consider the data required under subsection (8) of this section, and determine if the application of the child support guidelines results in appropriate support orders. Membership of the work group shall be determined as provided in this subsection.

(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;

(c) The governor, in consultation with the division of child support, shall appoint the following members:

(i) The director of the division of child support;

(ii) A professor of law specializing in family law;

(iii) A representative from the Washington state bar association's family law executive committee;

(iv) An economist;

(v) A representative of the tribal community;

(vi) Two representatives from the superior court judges' association, including a superior court judge and a court commissioner who is familiar with child support issues;

(vii) A representative from the administrative office of the courts;

(viii) A prosecutor appointed by the Washington association of prosecuting attorneys;

(ix) A representative from legal services;

(x) Three noncustodial parents, each of whom may be a representative of an advocacy group, an attorney, or an individual, with at least one representing the interests of low-income, noncustodial parents;

(xi) Three custodial parents, each of whom may be a representative of an advocacy group, an attorney, or an individual, with at least one representing the interests of low-income, custodial parents; and

(xii) An administrative law judge appointed by the office of administrative hearings.

(2) Appointments to the work group shall be made by December 1, 2010, and every four years thereafter. The governor shall appoint the chair from among the work group membership.

(3) The division of child support shall provide staff support to the work group, and shall carefully consider all input received from interested organizations and individuals during the review process.

(4) The work group may form an executive committee, create subcommittees, designate alternative representatives, and define other procedures, as needed, for operation of the work group.

(5) Legislative members of the work group shall be reimbursed for travel expenses under RCW 44.04.120. Nonlegislative members, except those representing an employee or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) By October 1, 2011, and every four years thereafter, the work group shall report its findings and recommendations to the legislature, including recommendations for legislative action, if necessary.

(7) The division of child support must prepare a child support review report for the use of each quadrennial work group. This report, along with the data described in subsection (8) of this section, must be used in the review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the division of child support, as directed by relevant state and federal law.

(8) During the quadrennial review, the data considered by the work group must include:

(a) Economic data on the cost of raising children; labor market data by occupation and skill level for the state and local job markets including, but not limited to, unemployment rates, employment rates, hours worked, and earnings; the impact of the guidelines' policies and amounts on parents who have family incomes below two hundred percent of the federal poverty level; and factors that influence employment rates and compliance with child support orders among parents who are obligated to pay support; and

(b) Case data, gathered through sampling or other methods, on the application of, and deviations from, the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using

the low-income adjustment. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment.

PART II CRITERIA FOR MODIFICATION OR ADJUSTMENT OF CHILD SUPPORT ORDERS

Sec. 2. RCW 26.09.170 and 2010 c 279 s 1 are each amended to read as follows:

(1) Except as otherwise provided in RCW 26.09.070(7), the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance or registration of a new domestic partnership of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) Unless expressly provided by an order of the superior court or a court of comparable jurisdiction, provisions for the support of a child are terminated upon the marriage or registration of a domestic partnership to each other of parties to a paternity order, or upon the remarriage or registration of a domestic partnership to each other of parties to a decree of dissolution. The remaining provisions of the order, including provisions establishing paternity, remain in effect.

(5)(a) A party to an order of child support may petition for a modification based upon a showing of substantially changed circumstances at any time.

(b) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(6) An order of child support may be modified one year or more after it has been entered without a showing of substantially changed circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

~~(b) ((If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;~~

~~(e)))~~ (e)) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

~~((d))~~ (c) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

(7)(a) If twenty-four months have passed from the date of the entry of the order or the last adjustment or modification, whichever is later, the order may be adjusted without a showing of substantially changed circumstances based upon:

- (i) Changes in the income of the parents; or
- (ii) Changes in the economic table or standards in chapter 26.19 RCW.

(b) Either party may initiate the adjustment by filing a motion and child support worksheets.

(c) If the court adjusts or modifies a child support obligation pursuant to this subsection by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for another adjustment under this subsection may be filed.

(8)(a) The department of social and health services may file an action to modify or adjust an order of child support if public assistance money is being paid to or for the benefit of the child and the department has determined that the child support order is at least ((twenty-five)) fifteen percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 ((and reasons for the deviation are not set forth in the findings of fact or order)).

(b) The department of social and health services may file an action to modify or adjust an order of child support in a nonassistance case if:

(i) The department has determined that the child support order is at least ((twenty-five)) fifteen percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011;

(ii) The department has determined the case meets the department's review criteria; and

(iii) A party to the order or another state or jurisdiction has requested a review.

(c) If incarceration of the parent who is obligated to pay support is the basis for the difference between the existing child support order amount and the proposed amount of support determined as a result of a review, the department may file an action to modify or adjust an order of child support even if:

(i) There is no other change of circumstances; and

(ii) The change in support does not meet the fifteen percent threshold.

(d) The determination of ((twenty-five percent or more shall)) whether the child support order is at least fifteen percent above or below the appropriate child support amount must be based on the current income of the parties ((and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order)).

(9) The department of social and health services may file an action to modify or adjust an order of child support under subsections (5) through (7) of this section if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(10) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or

to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown.

Sec. 3. RCW 74.20A.059 and 2018 c 150 s 109 are each amended to read as follows:

(1) The department, the physical custodian, or the responsible parent may petition for a prospective modification of a final administrative order if:

(a) The administrative order has not been superseded by a superior court order; and

(b) There has been a substantial change of circumstances, except as provided under RCW 74.20A.055(4)(d) or subsection (2) of this section.

(2) An order of child support may be modified at any time without a showing of substantially changed circumstances if incarceration of the parent who is obligated to pay support is the basis for the inconsistency between the existing child support order amount and the amount of support determined as a result of a review.

(3) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child; or

~~(b) ((If a party requests an adjustment in an order for child support that was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based; or~~

~~(e))~~ If a child is a full-time student and reasonably expected to complete secondary school or the equivalent level of vocational or technical training before the child becomes nineteen years of age upon a finding that there is a need to extend support beyond the eighteenth birthday.

~~((3))~~ (4) An order may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require medical support under RCW 26.09.105 for a child covered by the order; or

(b) Modify an existing order for health care coverage.

~~((4))~~ (5) Support orders may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances.

~~((5))~~ (6)(a) All administrative orders entered on, before, or after September 1, 1991, may be modified based upon changes in the child support schedule established in chapter 26.19 RCW without a substantial change of circumstances. The petition may be filed based on changes in the child support schedule after twelve months has expired from the entry of the administrative order or the most recent modification order setting child support, whichever is later. However, if a party is granted relief under this provision, twenty-four months must pass before another petition for modification may be filed pursuant to subsection ~~((4))~~ (5) of this section.

(b) If, pursuant to subsection ~~((4))~~ (5) of this section or (a) of this subsection, the order modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the change may be implemented in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must

pass following the second change before a petition for modification under subsection ~~((4))~~ (5) of this section may be filed.

~~((6))~~ (7) An increase in the wage or salary of the parent or custodian who is receiving the support transfer payments is not a substantial change in circumstances for purposes of modification under subsection (1)(b) of this section. An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

~~((7))~~ (8) The department shall file the petition and a supporting affidavit with the secretary or the secretary's designee when the department petitions for modification.

~~((8))~~ (9) The responsible parent or the physical custodian shall follow the procedures in this chapter for filing an application for an adjudicative proceeding to petition for modification.

~~((9))~~ (10) Upon the filing of a proper petition or application, the secretary or the secretary's designee shall issue an order directing each party to appear and show cause why the order should not be modified.

~~((10))~~ (11) If the presiding or reviewing officer finds a modification is appropriate, the officer shall modify the order and set current and future support under chapter 26.19 RCW.

PART III

ANNUAL FEE FOR SUPPORT ENFORCEMENT SERVICES

Sec. 4. RCW 74.20.040 and 2012 1st sp.s. c 4 s 1 are each amended to read as follows:

(1) Whenever the department receives an application for public assistance on behalf of a child, the department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. The secretary may condition requests accepted under this subsection ~~((may be conditioned))~~ upon the payment of a fee as required by subsection (6) of this section or through regulation issued by the secretary. The secretary may establish by regulation, reasonable standards and qualifications for support enforcement services ~~((under this subsection))~~ provided to persons who are not currently receiving public assistance.

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act or from foreign countries, and may take appropriate action to establish and enforce support obligations, or to enforce subpoenas, information requests, orders for genetic testing, and collection actions issued by the other agency against the parent or other person owing a duty to pay support moneys, the parent or other person's employer, or any other person or entity properly subject to child support collection or information-gathering processes. The request shall contain and be accompanied by such information and documentation as the secretary may by rule require, and be signed by an authorized representative of the agency. The secretary may

adopt rules setting forth the duration and nature of services provided under this subsection.

(4) The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21A, 26.26A, or ~~((26.26))~~ 26.26B RCW or other appropriate statutes or the common law of this state.

(5) Whenever a support order is filed with the Washington state support registry under chapter 26.23 RCW, the department may take appropriate action under the provisions of this chapter, chapter 26.23 or 74.20A RCW, or other appropriate law of this state to establish or enforce the support obligations contained in that order against the responsible parent or other persons owing a duty to pay support moneys.

~~(6)(a) Effective October 1, 2019, the secretary((, in the case of an individual who has never received assistance under a state program funded under part A and for whom the state has collected at least five hundred dollars of support,)) shall impose an annual fee of ((twenty-five)) thirty-five dollars for each case in which support enforcement services are furnished((, which)) where:~~

~~(i) The person entitled to receive support has never received assistance under the temporary assistance for needy families program, the aid for dependent families and children program, or a tribal temporary assistance for needy families program; and~~

~~(ii) The state has collected at least five hundred fifty dollars of support.~~

~~(b) The annual fee shall be retained by the state from support collected on behalf of the ((individual)) person entitled to receive support, but not from the first five hundred fifty dollars of support.~~

~~(c) The secretary may, on showing of necessity, waive or defer any such fee or cost.~~

(7) Fees, due and owing, may be retained from support payments directly or collected as delinquent support moneys utilizing any of the remedies in this chapter ~~((74.20 RCW)),~~ chapter 74.20A ~~((RCW, chapter))~~ or 26.21A RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(8) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys or fees owed.

(9) The secretary shall adopt rules conforming to federal laws, including but not limited to complying with section 7310 of the federal deficit reduction act of 2005, 42 U.S.C. Sec. 654, and rules and regulations required to be observed in maintaining the state child support enforcement program required under Title IV-D of the federal social security act. The adoption of these rules shall be calculated to promote the cost-effective use of the agency's resources and not otherwise cause the agency to divert its resources from its essential functions.

Passed by the House March 1, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 276

[Substitute House Bill 2049]

COMMERCIAL EGG LAYER OPERATIONS--VARIOUS PROVISIONS

AN ACT Relating to commercial egg layer operations; amending RCW 69.25.010, 69.25.065, 69.25.070, 69.25.103, 69.25.107, and 69.25.110; reenacting and amending RCW 69.25.020; and creating new sections.

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

NEW SECTION. **Sec. 1.** The legislature finds that the purpose of this act is to improve the regulation of egg production and sales in order to protect the health and welfare of consumers, promote food safety, advance animal welfare, and protect against the negative fiscal effects on the state associated with the lack of effective regulation of egg production and sales.

Sec. 2. RCW 69.25.010 and 1975 1st ex.s. c 201 s 2 are each amended to read as follows:

Eggs and egg products are an important source of the state's total supply of food, and are used in food in various forms. They are consumed throughout the state and the major portion thereof moves in intrastate commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, unadulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, unadulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is also essential to protect the health and welfare of consumers, promote food safety, advance animal welfare, and protect against the negative fiscal effects on the state associated with the lack of effective regulation of egg production and sales. It is hereby found that all egg products and the qualities of eggs which are regulated under this chapter are either in intrastate commerce, or substantially affect such commerce, and that regulation by the director, as contemplated by this chapter, is appropriate to protect the health and welfare of consumers.

Sec. 3. RCW 69.25.020 and 2013 c 144 s 44 are each reenacted and amended to read as follows:

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

(1) "Adulterated" applies to any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance,

such article is not considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b) If it bears or contains any added poisonous or added deleterious substance (other than one which is: (i) A pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the director, make such article unfit for human food;

(c) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical (~~(which is unsafe within the meaning of RCW 69.04.392, as enacted or hereafter amended)~~) that renders it adulterated within the meaning of RCW 15.130.200(2);

(d) If it bears or contains any food additive (~~(which is unsafe within the meaning of RCW 69.04.394, as enacted or hereafter amended)~~) that renders it adulterated within the meaning of RCW 15.130.200(2);

(e) If it bears or contains any color additive (~~(which is unsafe within the meaning of RCW 69.04.396)~~) that renders it adulterated within the meaning of RCW 15.130.200(2); however, an article which is not otherwise deemed adulterated under (c), (d), or (e) of this subsection are nevertheless deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the director in official plants;

(f) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(g) If it consists in whole or in part of any damaged egg or eggs to the extent that the egg meat or white is leaking, or it has been contacted by egg meat or white leaking from other eggs;

(h) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(i) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(j) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(k) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect (~~(pursuant to RCW 69.04.394)~~) under chapter 15.130 RCW; or

(l) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(2) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.

(3) "At retail" means any transaction in intrastate commerce between a retailer and a consumer.

(4) "Business licensing system" means the mechanism established by chapter 19.02 RCW by which business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a business license application and a business license expiration date common to each renewable license endorsement.

(5) "Candling" means the examination of the interior of eggs by the use of transmitted light used in a partially dark room or place.

(6) "Capable of use as human food" applies to any egg or egg product unless it is denatured, or otherwise identified, as required by regulations prescribed by the director, to deter its use as human food.

(7) "Check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(8) "Clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(9) "Consumer" means any person who purchases eggs or egg products for his or her own family use or consumption; or any restaurant, hotel, boarding house, bakery, or other institution or concern which purchases eggs or egg products for serving to guests or patrons thereof, or for its own use in cooking or baking.

(10) "Container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(11) "Department" means the department of agriculture of the state of Washington.

(12) "Director" means the director of the department or his duly authorized representative.

(13) "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(14) "Egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea, or any other specie of fowl.

(15) "Egg handler" or "dealer" means any person who produces, contracts for or obtains possession or control of any eggs or egg products for the purpose of sale to another dealer or retailer, or for processing and sale to a dealer, retailer or consumer. For the purpose of this chapter, "sell" or "sale" includes the following: Offer for sale, expose for sale, have in possession for sale, exchange, barter, trade, or as an inducement for the sale of another product.

(16)(a) "Egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion, or historically have not been, in the judgment of the director, considered by consumers as products of the egg food industry, and which may be exempted by the director under such conditions as the director may prescribe to assure that the egg ingredients are not adulterated and are not represented as egg products.

(b) The following products are not included in the definition of "egg product" if they are prepared from eggs or egg products that have been either inspected by the United States department of agriculture or by the department under a cooperative agreement with the United States department of agriculture: Freeze-dried products, imitation egg products, egg substitutes, dietary foods, dried no-bake custard mixes, eggnog mixes, acidic dressings, noodles, milk and egg dip, cake mixes, French toast, balut and other similar ethnic delicacies, and sandwiches containing eggs or egg products.

(17) "Immediate container" means any consumer package, or any other container in which egg products, not consumer-packaged, are packed.

(18) "Incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(19) "Inedible" means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(20) "Inspection" means the application of such inspection methods and techniques as are deemed necessary by the director to carry out the provisions of this chapter.

(21) "Inspector" means any employee or official of the department authorized to inspect eggs or egg products under the authority of this chapter.

(22) "Intrastate commerce" means any eggs or egg products in intrastate commerce, whether such eggs or egg products are intended for sale, held for sale, offered for sale, sold, stored, transported, or handled in this state in any manner and prepared for eventual distribution in this state, whether at wholesale or retail.

(23) "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(24) "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(25) "Misbranded" applies to egg products that are not labeled and packaged in accordance with the requirements prescribed by regulations of the director under RCW 69.25.100.

(26) "Official certificate" means any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under this chapter.

(27) "Official device" means any device prescribed or authorized by the director for use in applying any official mark.

(28) "Official inspection legend" means any symbol prescribed by regulations of the director showing that egg products were inspected in accordance with this chapter.

(29) "Official mark" means the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article under this chapter.

(30) "Official plant" means any plant which is licensed under the provisions of this chapter, at which inspection of the processing of egg products is maintained by the United States department of agriculture or by the state under cooperative agreements with the United States department of agriculture or by the state.

(31) "Official standards" means the standards of quality, grades, and weight classes for eggs, adopted under the provisions of this chapter.

(32) "Pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful, viable microorganisms by such processes as may be prescribed by regulations of the director.

(33) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof, or assignee for the benefit of creditors.

(34) "Pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" have the same meaning for purposes of this chapter as ~~((prescribed in chapter 69.04 RCW))~~ defined in chapter 15.130 RCW.

(35) "Plant" means any place of business where egg products are processed.

(36) "Processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(37) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(38) "Retailer" means any person in intrastate commerce who sells eggs or egg products to a consumer.

(39) "Shipping container" means any container used in packaging a product packed in an immediate container.

(40) "Cage-free housing system" means an indoor or outdoor controlled environment for egg-laying hens within which:

(a) Hens are free to roam unrestricted except by external walls;

(b) Hens are provided enrichments that allow them to exhibit natural behaviors including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and

(c) Farm employees can provide care while standing somewhere within the hens' usable floor space.

(41) "Egg-laying hen" means any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of egg production.

(42) "Usable floor space" means the total square footage of floor space provided to each egg-laying hen, calculated by dividing the total square footage of floor space in an enclosure by the number of hens in that enclosure. "Usable floor space" includes ground space and elevated level or nearly level platforms to accommodate egg flow upon which hens can roost, but does not include perches or ramps.

Sec. 4. RCW 69.25.065 and 2011 c 306 s 3 are each amended to read as follows:

(1) All new and renewal applications submitted under RCW 69.25.050 before January 1, ~~((2026))~~ 2024, must include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations:

(a) With a current certification under the 2010 version of the united egg producers animal husbandry guidelines for United States egg laying flocks for conventional cage systems or cage-free housing systems or a subsequent version of the guidelines recognized by the department in rule; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(2) All new and renewal applications submitted under RCW 69.25.050 before January 1, 2017, must, in addition to complying with subsection (1) of this section, include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations

whose housing facilities, if built between January 1, 2012, and December 31, 2016, are either:

(a) Approved under, or convertible to, the American humane association facility system plan for enriched colony housing in effect on January 1, 2011, or a subsequent version of the plan recognized by the department in rule and, in addition, are convertible to the standards identified in RCW 69.25.107; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(3) All new and renewal applications submitted under RCW 69.25.050 between January 1, 2017, and December 31, ~~((2025))~~ 2023, must, in addition to complying with subsection (1) of this section, include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations whose housing facilities, if built on or after January 1, 2012, are either:

(a) Approved under the American humane association facility system plan and audit protocol for enriched colony housing in effect on January 1, 2011, or a subsequent version of the plan recognized by the department in rule and, in addition, are operated to the standards identified in RCW 69.25.107; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(4) All new and renewal applications submitted under RCW 69.25.050 on or after January 1, ~~((2026))~~ 2024, must include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations that are either:

(a) ~~((Approved under the American humane association facility system plan and audit protocol for enriched colony housing in effect on January 1, 2011))~~ Housing egg-laying hens with at a minimum the amount of usable floor space per hen required by the 2017 edition of the united egg producers' Animal Husbandry Guidelines for United States Egg-Laying Flocks: Guidelines for Cage-Free Housing, or a subsequent version of the plan recognized by the department in rule as providing equal or more usable floor space per egg-laying hen and, in addition, are operated to the standards identified in RCW 69.25.107; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(5) The following are exempt from the requirements of subsections (2) and (3) of this section:

(a) Applicants with fewer than three thousand laying chickens; and

(b) Commercial egg layer operations when producing eggs or egg products from turkeys, ducks, geese, guineas, or other species of fowl other than domestic chickens.

Sec. 5. RCW 69.25.070 and 1975 1st ex.s. c 201 s 8 are each amended to read as follows:

The department ~~((may))~~ shall deny, suspend, or revoke ~~((, or issue))~~ a license or a conditional license if it determines that an applicant or licensee has committed any of the following acts:

(1) That the applicant or licensee is violating or has violated any of the provisions of this chapter or rules and regulations adopted thereunder.

(2) That the application contains any materially false or misleading statement or involves any misrepresentation by any officer, agent, or employee of the applicant.

(3) That the applicant or licensee has concealed or withheld any facts regarding any violation of this chapter by any officer, agent, or employee of the applicant or licensee.

Sec. 6. RCW 69.25.103 and 2011 c 306 s 4 are each amended to read as follows:

Any egg handler or dealer involved with the in-state production of eggs or egg products only intended for sale outside of the state of Washington must ensure that the associated commercial egg layer operation is in compliance with the applicable standards as provided in RCW 69.25.065 and 69.25.107.

Sec. 7. RCW 69.25.107 and 2011 c 306 s 5 are each amended to read as follows:

(1) All commercial egg layer operations required under RCW 69.25.065 to meet the American humane association facility system plan, or an equivalent to the plan, must also ensure that all hens in the operation are provided with:

(a) No less than one hundred sixteen and three-tenths square inches of space per hen; and

(b) Access to areas for nesting, scratching, and perching.

(2) All commercial egg layer operations required under RCW 69.25.065 to house egg-laying hens with at a minimum the amount of usable floor space per hen required by the 2017 edition of the united egg producers' Animal Husbandry Guidelines for United States Egg-Laying Flocks: Guidelines for Cage-Free Housing, or a subsequent version of the plan recognized by the department in rule as providing equal or more useable floor space per egg-laying hen, must ensure that the hens are housed in a cage-free housing system.

(3) Subsection (2) of this section does not apply:

(a) During medical research;

(b) During examination, testing, individual treatment, or operation for veterinary purposes;

(c) During transportation, or depopulation operations for periods of no more than seven days in any eighteen-month period;

(d) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions;

(e) During the slaughter of an egg-laying hen in accordance with applicable laws and regulations; or

(f) During temporary periods for animal husbandry purposes of no more than six hours in any twenty-four-hour period, and no more than twenty-four hours in any thirty-day period.

(4) The requirements of this section apply for any commercial egg layer operation on the same dates that RCW 69.25.065 requires compliance with the American humane association facility system plan or an equivalent to the plan, or requires housing egg-laying hens with at a minimum the amount of usable floor space per hen required by the united egg producers' Animal Husbandry

Guidelines for United States Egg-Laying Flocks: Guidelines for Cage-Free Housing or an equivalent to the guidelines.

Sec. 8. RCW 69.25.110 and 2012 c 117 s 348 are each amended to read as follows:

(1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in intrastate commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the director under such conditions as he or she may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for intrastate commerce except that such eggs may be so possessed and used when authorized by regulations of the director under such conditions as he or she may prescribe to assure that only eggs fit for human food are used for such purpose.

(3) No person shall process any egg products for intrastate commerce at any plant except in compliance with the requirements of this chapter.

(4) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in intrastate commerce any egg or egg product that was not produced in compliance with the standards required by RCW 69.25.065 and 69.25.107. This prohibition shall not apply to any sale undertaken at an official plant at which mandatory inspection is maintained under the federal egg products inspection act, 21 U.S.C. Sec. 1031 et seq. For the purposes of this subsection, a sale is deemed to occur at the location where the buyer takes physical possession of an item.

(5) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in intrastate commerce any egg products required to be inspected under this chapter unless they have been so inspected and are labeled and packaged in accordance with the requirements of RCW 69.25.100.

~~((5))~~ (6) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

~~((6))~~ (7) No person shall:

(a) Manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the director;

(b) Forge or alter any official device, mark, or certificate;

(c) Without authorization from the director, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under RCW 69.25.100 after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section;

(d) Contrary to the regulations prescribed by the director, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(e) Knowingly possess, without promptly notifying the director or his or her representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(f) Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the director;

(g) Knowingly represent that any article has been inspected or exempted, under this chapter when in fact it has not been so inspected or exempted; and

(h) Refuse access, at any reasonable time, to any representative of the director, to any plant or other place of business subject to inspection under any provisions of this chapter.

~~((7))~~ (8) No person, while an official or employee of the state or local governmental agency, or thereafter, shall use to his or her own advantage, or reveal other than to the authorized representatives of the United States government or the state in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this chapter concerning any matter which the originator or relator of such information claims to be entitled to protection as a trade secret.

NEW SECTION, Sec. 9. The provisions of this act are in addition to, and not in lieu of, any other laws protecting animal welfare. This act shall not be construed to limit any other state laws or regulations protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

Passed by the House April 22, 2019.

Passed by the Senate March 29, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 277

[House Bill 2052]

MARIJUANA PRODUCT TESTING--VARIOUS PROVISIONS

AN ACT Relating to clarifying marijuana product testing by revising provisions concerning marijuana testing laboratory accreditation and establishing a cannabis science task force; amending RCW 69.50.348, 69.50.348, and 69.50.345; adding new sections to chapter 43.21A RCW; adding a new section to chapter 69.50 RCW; creating a new section; providing an effective date; and providing expiration dates.

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

Sec. 1. RCW 69.50.348 and 2013 c 3 s 11 are each amended to read as follows:

(1) On a schedule determined by the state liquor ~~((control))~~ and cannabis board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the state liquor ~~((control))~~ and cannabis board, for inspection and testing to certify compliance with quality assurance and product standards adopted by the state liquor ~~((control))~~ and cannabis board under RCW 69.50.342. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample.

(2) Licensees must submit the results of ~~((this))~~ inspection and testing for quality assurance and product standards required under subsection (1) of this section to the state liquor ~~((control))~~ and cannabis board on a form developed by the state liquor ~~((control))~~ and cannabis board.

(3) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards ~~((adopted))~~ established by the state liquor ~~((control))~~ and cannabis board, the entire lot from which the sample was taken must be destroyed.

(4) The state liquor and cannabis board may adopt rules necessary to implement this section.

Sec. 2. RCW 69.50.348 and 2013 c 3 s 11 are each amended to read as follows:

(1) On a schedule determined by the state liquor ~~((control))~~ and cannabis board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the state ~~((liquor control board))~~ department of ecology, for inspection and testing to certify compliance with quality assurance and product standards adopted by the state liquor ~~((control))~~ and cannabis board under RCW 69.50.342. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample.

(2) Licensees must submit the results of ~~((this))~~ inspection and testing for quality assurance and product standards required under RCW 69.50.342 to the state liquor ~~((control))~~ and cannabis board on a form developed by the state liquor ~~((control))~~ and cannabis board.

(3) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards ~~((adopted))~~ established by the state liquor ~~((control))~~ and cannabis board, the entire lot from which the sample was taken must be destroyed.

(4)(a) The department of ecology may determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing a state marijuana product testing laboratory accreditation program, except for the initial program development costs. The department of ecology must develop a fee schedule allocating the costs of the accreditation program among its accredited marijuana product testing laboratories. The department of ecology may establish a payment schedule requiring periodic installments of the annual fee. The fee schedule must be established in amounts to fully cover, but not exceed, the administrative and oversight costs. The department of ecology must review and update its fee schedule biennially. The costs of marijuana product testing laboratory accreditation are those incurred by the department of ecology in administering and enforcing the accreditation program. The costs may include, but are not limited to, the costs incurred in undertaking the following accreditation functions:

(i) Evaluating the protocols and procedures used by a laboratory;

(ii) Performing on-site audits;

(iii) Evaluating participation and successful completion of proficiency testing;

(iv) Determining the capability of a laboratory to produce accurate and reliable test results; and

(v) Such other accreditation activities as the department of ecology deems appropriate.

(b) The state marijuana product testing laboratory accreditation program initial development costs must be fully paid from the dedicated marijuana account created in RCW 69.50.530.

(5) The department of ecology and the liquor and cannabis board must act cooperatively to ensure effective implementation and administration of this section.

(6) All fees collected under this section must be deposited in the dedicated marijuana account created in RCW 69.50.530.

NEW SECTION. Sec. 3. A new section is added to chapter 43.21A RCW to read as follows:

(1)(a) The cannabis science task force is established with members as provided in this subsection.

(i) The directors, or the directors' appointees, of the departments of agriculture, health, ecology, and the liquor and cannabis board must each serve as members on the task force.

(ii) A majority of the four agency task force members will select additional members, as follows:

(A) Representatives with expertise in chemistry, microbiology, toxicology, public health, and/or food and agricultural testing methods from state and local agencies and tribal governments; and

(B) Nongovernmental cannabis industry scientists.

(b) The director or the director's designee from the department of ecology must serve as chair of the task force.

(2)(a) The cannabis science task force must:

(i) Collaborate on the development of appropriate laboratory quality standards for marijuana product testing laboratories;

(ii) Establish two work groups:

(A) A proficiency testing program work group to be led by the department; and

(B) A laboratory quality standards work group to be led by the department of agriculture. At a minimum this work group will address appropriate approved testing methods, method validation protocols, and method performance criteria.

(b) The cannabis science task force may reorganize the work groups or create additional work groups as necessary.

(3) Staff support for the cannabis science task force must be provided by the department.

(4) Reimbursement for members is subject to chapter 43.03 RCW.

(5) Expenses of the cannabis science task force must be paid by the department.

(6) The cannabis science task force must submit a report to the relevant committees of the legislature by July 1, 2020, that includes the findings and recommendations for laboratory quality standards for pesticides in plants for marijuana product testing laboratories. The report must include, but is not limited to, recommendations relating to the following:

(a) Appropriate approved testing methods;

- (b) Method validation protocols;
- (c) Method performance criteria;
- (d) Sampling and homogenization protocols;
- (e) Proficiency testing; and
- (f) Regulatory updates related to (a) through (e) of this subsection, by which agencies, and the timing of these updates.

(7) To the fullest extent possible, the task force must consult with other jurisdictions that have established, or are establishing, marijuana product testing programs.

(8) Following development of findings and recommendations for laboratory quality standards for pesticides in plants for marijuana product testing laboratories, the task force must develop findings and recommendations for additional laboratory quality standards, including, but not limited to, heavy metals in and potency of marijuana products.

(a) The cannabis science task force must submit a report on the findings and recommendations for these additional standards to the relevant committees of the legislature by December 1, 2021.

(b) The report must include recommendations pertaining to the items listed in subsection (6)(a) through (f) of this section.

(9) The task force must hold its first meeting by September 1, 2019.

(10) This section expires December 31, 2022.

NEW SECTION. Sec. 4. A new section is added to chapter 69.50 RCW to read as follows:

The liquor and cannabis board may adopt rules that address the findings and recommendations in the task force reports provided under section 3 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 43.21A RCW to read as follows:

By July 1, 2024, the department must, in consultation with the liquor and cannabis board, adopt rules to implement section 2, chapter . . ., Laws of 2019 (section 2 of this act).

Sec. 6. RCW 69.50.345 and 2018 c 43 s 2 are each amended to read as follows:

The state liquor and cannabis board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of marijuana producers, marijuana processors, and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for marijuana producers must request the applicant to state whether the applicant intends to produce marijuana for sale by marijuana retailers holding medical marijuana endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients.

(b) The state liquor and cannabis board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and

increase the percentage of production space for those marijuana producers who intend to grow plants for marijuana retailers holding medical marijuana endorsements if the marijuana producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products to be sold to qualifying patients. If current marijuana producers do not use all the increased production space, the state liquor and cannabis board may reopen the license period for new marijuana producer license applicants but only to those marijuana producers who agree to grow plants for marijuana retailers holding medical marijuana endorsements. Priority in licensing must be given to marijuana producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new marijuana producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in RCW 69.51A.230;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues;

(c) The provision of adequate access to licensed sources of marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(d) The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients. The state liquor and cannabis board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in RCW 69.51A.230;

(3) Determining the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the state liquor and cannabis board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products, and their labeling requirements, to include but not be limited to:

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced and processed the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(b) Lot numbers of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(c) THC concentration and CBD concentration of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(d) Medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(e) Language required by RCW 69.04.480;

(8) In consultation with the department of agriculture and the department, establishing classes of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the state liquor and cannabis board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to marijuana that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising; and

(d) Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(11) In consultation with the department and the department of agriculture, ~~((establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the state liquor and cannabis board, and))~~ prescribing methods of producing, processing, and packaging marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the state liquor and cannabis board.

NEW SECTION. **Sec. 7.** Section 1 of this act expires July 1, 2024.

NEW SECTION. **Sec. 8.** Sections 2 and 6 of this act take effect July 1, 2024.

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 22, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 278

[Engrossed House Bill 2067]

ADDRESS CONFIDENTIALITY PROGRAM--VEHICLE AND VESSEL OWNER INFORMATION

AN ACT Relating to prohibiting the disclosure of certain individual vehicle and vessel owner information of those participating in the address confidentiality program; amending RCW 46.12.635 and 40.24.030; adding a new section to chapter 40.24 RCW; creating a new section; and providing an expiration date.

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

Sec. 1. RCW 46.12.635 and 2016 c 80 s 2 are each amended to read as follows:

(1) Notwithstanding the provisions of chapter 42.56 RCW, the name or address of an individual vehicle or vessel owner shall not be released by the department, county auditor, or agency or firm authorized by the department except under the following circumstances:

(a) The requesting party is a business entity that requests the information for use in the course of business;

(b) The request is a written request that is signed by the person requesting disclosure that contains the full legal name and address of the requesting party, that specifies the purpose for which the information will be used; and

(c) The requesting party enters into a disclosure agreement with the department in which the party promises that the party will use the information only for the purpose stated in the request for the information; and that the party does not intend to use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information. The term "unsolicited business contact" means a contact that is intended to result in, or promote, the sale of any goods or services to a person named in the disclosed information. The term does not apply to situations where the requesting party and such person have been involved in a business

transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(2) Where both a mailing address and residence address are recorded on the vehicle or vessel record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

(3) The disclosing entity shall retain the request for disclosure for three years.

(4)(a) Whenever the disclosing entity grants a request for information under this section by an attorney or private investigator, the disclosing entity shall provide notice to the vehicle or vessel owner, to whom the information applies, that the request has been granted. The notice must only include: (i) That the disclosing entity has disclosed the vehicle or vessel owner's name and address pursuant to a request made under this section; (ii) the date that the disclosure was made; and (iii) that the vehicle or vessel owner has five days from receipt of the notice to contact the disclosing entity to determine the occupation of the requesting party.

(b) Except as provided in (c) of this subsection, the only information about the requesting party that the disclosing entity may disclose in response to a request made by a vehicle or vessel owner under (a) of this subsection is whether the requesting party was an attorney or private investigator. The request by the vehicle or vessel owner must be submitted to the disclosing entity within five days of receipt of the original notice.

(c) In the case of a vehicle or vessel owner who submits to the disclosing entity a copy of a valid court order restricting another person from contacting the vehicle or vessel owner or his or her family or household member, the disclosing entity shall provide the vehicle or vessel owner with the name and address of the requesting party.

(5) Any person who is furnished vehicle or vessel owner information under this section shall be responsible for assuring that the information furnished is not used for a purpose contrary to the agreement between the person and the department.

(6) This section shall not apply to requests for information by governmental entities or requests that may be granted under any other provision of this title expressly authorizing the disclosure of the names or addresses of vehicle or vessel owners. Requests from law enforcement officers for vessel record information must be granted. The disclosure agreement with law enforcement entities must provide that law enforcement may redisclose a vessel owner's name or address when trying to locate the owner of or otherwise deal with a vessel that has become a hazard.

(7) The department shall disclose vessel records for any vessel owned by a governmental entity upon request.

(8) This section shall not apply to title history information under RCW 19.118.170.

(9) The department shall charge a fee of two dollars for each record returned pursuant to a request made by a business entity under subsection (1) of this section and deposit the fee into the highway safety account.

(10) The department, county auditor, or agency or firm authorized by the department shall not release the name, any address, vehicle make, vehicle model, vehicle year, vehicle identification number, vessel make and model, vessel model year, hull identification number, vessel document number, vessel registration number, vessel decal number, or license plate number associated with an individual vehicle or vessel owner who is a participant in the address confidentiality program under chapter 40.24 RCW except as allowed in subsection (6) of this section and RCW 40.24.075.

NEW SECTION. Sec. 2. A new section is added to chapter 40.24 RCW to read as follows:

The department of licensing, county auditors, or agencies or firms authorized by the department of licensing may not disclose the name, any address, vehicle make, vehicle model, vehicle year, vehicle identification number, vessel make and model, vessel model year, hull identification number, vessel document number, vessel registration number, vessel decal number, or license plate number associated with a program participant under the disclosure authority provided in RCW 46.12.635 except as allowed in RCW 46.12.635(6) or if provided with a court order as allowed in RCW 40.24.075.

Sec. 3. RCW 40.24.030 and 2011 c 64 s 2 are each amended to read as follows:

(1)(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, and (b) any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), and any family members residing with him or her, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(i) A sworn statement, under penalty of perjury, by the applicant that the applicant has good reason to believe (A) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, trafficking, or stalking and that the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made; or (B) that the applicant, as a criminal justice participant as defined in RCW 9A.46.020, is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

(ii) If applicable, a sworn statement, under penalty of perjury, by the applicant, that the applicant has reason to believe they are a victim of (A) domestic violence, sexual assault, or stalking perpetrated by an employee of a law enforcement agency, or (B) threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

(iii) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(iv) The residential address and any telephone number where the applicant can be contacted by the secretary of state, which shall not be disclosed because disclosure will increase the risk of (A) domestic violence, sexual assault,

trafficking, or stalking, or (B) threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

(v) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4)(a) During the application process, the secretary of state shall provide each applicant a form to direct the department of licensing to change the address of registration for vehicles or vessels solely or jointly registered to the applicant and the address associated with the applicant's driver's license or identicard to the applicant's address as designated by the secretary of state upon certification in the program. The directive to the department of licensing is only valid if signed by the applicant. The directive may only include information required by the department of licensing to verify the applicant's identity and ownership information for vehicles and vessels. This information is limited to the:

(i) Applicant's full legal name;

(ii) Applicant's Washington driver's license or identicard number;

(iii) Applicant's date of birth;

(iv) Vehicle identification number and license plate number for each vehicle solely or jointly registered to the applicant; and

(v) Hull identification number or vessel document number and vessel decal number for each vessel solely or jointly registered to the applicant.

(b) Upon certification of the applicants, the secretary of state shall transmit completed and signed directives to the department of licensing.

(c) Within thirty days of receiving a completed and signed directive, the department of licensing shall update the applicant's address on registration and licensing records.

(d) Applicants are not required to sign the directive to the department of licensing to be certified as a program participant.

(5) A person who knowingly provides false or incorrect information upon making an application or falsely attests in an application that disclosure of the applicant's address would endanger (a) the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or (b) the safety of any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), or any family members residing with him or her, shall be punished under RCW 40.16.030 or other applicable statutes.

NEW SECTION. Sec. 4. (1) By November 1, 2019, the secretary of state shall, in accordance with RCW 40.24.030, provide to current program participants, as of August 1, 2019, forms to direct the department of licensing to change the address of registration for vehicles or vessels solely or jointly registered to the applicant or the address associated with the applicant's driver's

license or identocard to the applicant's address as designated by the secretary of state upon certification in the program.

(2) This section expires June 30, 2020.

Passed by the House April 24, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 279

[Substitute Senate Bill 5023]

PUBLIC SCHOOL ETHNIC STUDIES CURRICULUM

AN ACT Relating to ethnic studies materials and resources for public school students; adding a new section to chapter 28A.655 RCW; adding a new section to chapter 28A.300 RCW; 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 stated in RCW 28A.150.210 that a "basic education is an evolving program of instruction that is intended to provide students with the opportunity to become responsible and respectful global citizens." In order to prepare students to be global citizens, the legislature intends to require the office of the superintendent of public instruction to develop, and periodically update, essential academic learning requirements and grade-level expectations that identify the knowledge and skills that all public school students need to be global citizens in a global society with an appreciation for the contributions of diverse cultures. The office of the superintendent of public instruction must also identify and make available ethnic studies materials and resources for use in grades seven through twelve. The legislature also intends to encourage public schools with students in grades seven through twelve to offer an ethnic studies course that incorporates the materials and resources.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.655 RCW to read as follows:

By September 1, 2020, the office of the superintendent of public instruction shall adopt essential academic learning requirements and grade-level expectations that identify the knowledge and skills that all public school students need to be global citizens in a global society with an appreciation for the contributions of diverse cultures. These essential academic learning requirements and grade-level expectations must be periodically updated to incorporate best practices in ethnic studies.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.300 RCW to read as follows:

(1) By September 1, 2020, the office of the superintendent of public instruction shall identify and make available ethnic studies materials and resources for use in grades seven through twelve. The materials and resources must be designed to prepare students to be global citizens in a global society with an appreciation for the contributions of multiple cultures. The materials and resources must be posted on the office of the superintendent of public instruction's web site.

(2) Public schools with students in grades seven through twelve are encouraged to offer an ethnic studies course that incorporates the materials and resources identified under subsection (1) of this section.

NEW SECTION. Sec. 4. (1) The superintendent of public instruction must establish an ethnic studies advisory committee to:

(a) Advise, assist, and make recommendations to the office of the superintendent of public instruction regarding the identification of ethnic studies materials and resources: (i) Described under section 3 of this act; and (ii) for use in elementary schools; and

(b) Develop a framework to support the teaching of ethnic studies to students in grades seven through twelve.

(2) The ethnic studies advisory committee must be composed of a majority of educators with experience in teaching ethnic studies from public high schools and institutions of higher education, including educators representing the Washington state commissions on African American affairs, Asian Pacific American affairs, and Hispanic affairs.

(3) This section expires June 30, 2021.

NEW SECTION. Sec. 5. The legislature intends that nothing in this act supersedes the use of the Since Time Immemorial: Tribal sovereignty in Washington state curriculum, developed as required under RCW 28A.320.170(1)(b).

Passed by the Senate April 18, 2019.

Passed by the House April 4, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 280

[Senate Bill 5199]

CERTAIN CORRECTIONAL EMPLOYEES--BINDING INTEREST ARBITRATION

AN ACT Relating to granting certain correctional employees binding interest arbitration; and amending RCW 41.56.030.

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

Sec. 1. RCW 41.56.030 and 2018 c 253 s 6 are each amended to read as follows:

As used in this chapter:

(1) "Adult family home provider" means a provider as defined in RCW 70.128.010 who receives payments from the medicaid and state-funded long-term care programs.

(2) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(3) "Child care subsidy" means a payment from the state through a child care subsidy program established pursuant to RCW 74.12.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor program.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a

written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Family child care provider" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) receives child care subsidies; and (c) under chapter 43.216 RCW, is either licensed by the state or is exempt from licensing.

(8) "Individual provider" means an individual provider as defined in RCW 74.39A.240(3) who, solely for the purposes of collective bargaining, is a public employee as provided in RCW 74.39A.270.

(9) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(10)(a) "Language access provider" means any independent contractor who provides spoken language interpreter services, whether paid by a broker, language access agency, or the respective department:

(i) For department of social and health services appointments, department of children, youth, and families appointments, medicaid enrollee appointments, or who provided these services on or after January 1, 2011, and before June 10, 2012;

(ii) For department of labor and industries authorized medical and vocational providers, or who provided these services on or after January 1, 2016, and before July 1, 2018; or

(iii) For state agencies, or who provided these services on or after January 1, 2016, and before July 1, 2018.

(b) "Language access provider" does not mean a manager or employee of a broker or a language access agency.

(11) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court

commissioner. For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(12) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

(13) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(9), by a county with a population of seventy thousand or more, in a correctional facility created under RCW 70.48.095, or in a detention facility created under chapter 13.40 RCW that is located in a county with a population over one million five hundred thousand, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) firefighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other firefighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer; or (i) court marshals of any county who are employed by, trained for, and commissioned by the county sheriff and charged with the responsibility of enforcing laws, protecting and maintaining security in all county-owned or contracted property, and performing any other duties assigned to them by the county sheriff or mandated by judicial order.

Passed by the Senate March 7, 2019.

Passed by the House April 10, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 281

[Engrossed Substitute Senate Bill 5272]

EMERGENCY COMMUNICATION SYSTEMS AND FACILITIES--MAXIMUM VOTER-APPROVED LOCAL SALES AND USE TAX RATE

AN ACT Relating to increasing the maximum tax rate for the voter-approved local sales and use tax for emergency communication systems and facilities; and amending RCW 82.14.420.

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

Sec. 1. RCW 82.14.420 and 2002 c 176 s 1 are each amended to read as follows:

(1) A county legislative authority may submit an authorizing proposition to the county voters, and if the proposition is approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter for the purposes designated in subsection (3) of this section.

(2) The tax authorized in this section (~~((shall be))~~) is in addition to any other taxes authorized by law and (~~((shall))~~) 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 (~~((shall equal one-tenth))~~) may not exceed two-tenths of one percent of the selling price in the case of sales tax, or value of the article used, in the case of a use tax.

(3) Moneys received from any tax imposed under this section (~~((shall))~~) must be used solely for the purpose of providing funds for costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, reequipping, and improvement of emergency communication systems and facilities.

(4) Counties are authorized to develop joint ventures to collocate emergency communication systems and facilities.

(5) Prior to submitting the tax authorization in subsection (2) of this section to the voters in a county that provides emergency communication services to a governmental agency pursuant to a contract, the parties to the contract (~~((shall))~~) must review and negotiate or affirm the terms of the contract.

(6) Prior to submitting the tax authorized in subsection (2) of this section to the voters, a county with a population of more than one million five hundred thousand in which any city over fifty thousand operates emergency communication systems and facilities (~~((shall))~~) either independently or as a member of a regional emergency communication agency must enter into an interlocal agreement with the city to determine distribution of the revenue provided in this section.

(7) Prior to submitting the tax authorized in subsection (2) of this section to the voters, a county with a population of more than five hundred thousand but less than one million five hundred thousand in which any city over fifty thousand operates emergency communication systems and facilities must enter into an interlocal agreement with the city to determine distribution of the revenue provided in this section.

(8) A county imposing the tax authorized under this section on the effective date of this section must submit an authorizing proposition to the voters as provided under this section to increase the rate of tax.

(9) The Washington state patrol must enter into an intergovernmental agreement, with a county, city, or regional communications agency that operates emergency communications systems, for purposes of interoperable communications, if the following conditions are met:

(a) The intergovernmental agreement is requested by the county, city, or regional communications agency for this purpose; and

(b) The terms and conditions are mutually agreeable.

Passed by the Senate April 23, 2019.

Passed by the House April 17, 2019.
 Approved by the Governor May 7, 2019.
 Filed in Office of Secretary of State May 13, 2019.

CHAPTER 282

[Senate Bill 5415]

INDIAN HEALTH IMPROVEMENT ADVISORY PLAN AND REINVESTMENT ACCOUNT

AN ACT Relating to creating a forum and a funding mechanism to improve the health of American Indians and Alaska Natives in the state; reenacting and amending RCW 43.79A.040; and adding a new chapter to Title 43 RCW.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) As set forth in 25 U.S.C. Sec. 1602, it is the policy of the nation, in fulfillment of its special trust responsibilities and legal obligations to American Indians and Alaska Natives, to:

(i) Ensure the highest possible health status for American Indians and Alaska Natives and to provide all resources necessary to effect that policy;

(ii) Raise the health status of American Indians and Alaska Natives to at least the levels set forth in the goals contained within the healthy people 2020 initiative or successor objectives; and

(iii) Ensure tribal self-determination and maximum participation by American Indians and Alaska Natives in the direction of health care services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of tribes and American Indian and Alaska Native communities;

(b) According to the northwest tribal epidemiology center and the department of health, American Indians and Alaska Natives in the state experience some of the greatest health disparities compared to other groups, including excessively high rates of:

(i) Premature mortality due to suicide, overdose, unintentional injury, and various chronic diseases; and

(ii) Asthma, coronary heart disease, hypertension, diabetes, prediabetes, obesity, dental caries, poor mental health, youth depressive feelings, cigarette smoking and vaping, and cannabis use;

(c) These health disparities are a direct result of both historical trauma, leading to adverse childhood experiences across multiple generations, and inadequate levels of federal funding to the Indian health service;

(d) Under a 2016 update in payment policy from the centers for medicare and medicaid services, the state has the opportunity to shift more of the cost of care for American Indian and Alaska Native medicaid enrollees from the state general fund to the federal government if all of the federal requirements are met;

(e) Because the federal requirements to achieve this cost shift and obtain the new federal funds place significant administrative burdens on Indian health service and tribal health facilities, the state has no way to shift these costs of care to the federal government unless the state provides incentives for tribes to take on these administrative burdens; and

(f) The federal government's intent for this update in payment policy is to help states, the Indian health service, and tribes to improve delivery systems for

American Indians and Alaska Natives by increasing access to care, strengthening continuity of care, and improving population health.

(2) The legislature, therefore, intends to:

(a) Establish that it is the policy of this state and the intent of this chapter, in fulfillment of the state's unique relationships and shared respect between sovereign governments, to:

(i) Recognize the United States' special trust responsibility to provide quality health care and allied health services to American Indians and Alaska Natives, including those individuals who are residents of this state; and

(ii) Implement the national policies of Indian self-determination with the goal of reducing health inequities for American Indians and Alaska Natives;

(b) Establish the governor's Indian health advisory council to:

(i) Adopt a biennial Indian health improvement advisory plan, developed by the reinvestment committee;

(ii) Address issues with tribal implications that are not able to be resolved at the agency level; and

(iii) Provide oversight of the Indian health improvement reinvestment account;

(c) Establish the Indian health improvement reinvestment account in order to provide incentives for tribes to assume the administrative burdens created by the federal requirements for the state to shift health care costs to the federal government;

(d) Appropriate and deposit into the reinvestment account all of the new state savings, subject to federal appropriations and less agreed upon administrative costs to maintain fiscal neutrality to the state general fund; and

(e) Require the funds in the reinvestment account to be spent only on costs for projects, programs, or activities identified in the advisory plan.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory council" means the governor's Indian health advisory council established in section 3 of this act.

(2) "Advisory plan" means the plan described in section 4 of this act.

(3) "American Indian" or "Alaska Native" means any individual who is: (a) A member of a federally recognized tribe; or (b) eligible for the Indian health service.

(4) "Authority" means the health care authority.

(5) "Board" means the northwest Portland area Indian health board, an Oregon nonprofit corporation wholly controlled by the tribes in the states of Idaho, Oregon, and Washington.

(6) "Commission" means the American Indian health commission for Washington state, a Washington nonprofit corporation wholly controlled by the tribes and urban Indian organizations in the state.

(7) "Community health aide" means a tribal community health provider certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l, who can perform a wide range of duties within the provider's scope of certified practice in health programs of a tribe, tribal organization, Indian health service facility, or urban Indian organization to improve access to culturally appropriate, quality care for American Indians and Alaska Natives and

their families and communities, including but not limited to community health aides, community health practitioners, behavioral health aides, behavioral health practitioners, dental health aides, and dental health aide therapists.

(8) "Community health aide program" means a community health aide certification board for the state consistent with 25 U.S.C. Sec. 1616l and the training programs and certification requirements established thereunder.

(9) "Fee-for-service" means the state's medicaid program for which payments are made under the state plan, without a managed care entity, in accordance with the fee-for-service payment methodology.

(10) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in 25 U.S.C. Sec. 1603.

(11) "Indian health service" means the federal agency within the United States department of health and human services.

(12) "New state savings" means the savings to the state general fund that are achieved as a result of the centers for medicare and medicaid services state health official letter 16-002 and related guidance, calculated as the difference between (a) medicaid payments received from the centers for medicare and medicaid services based on the one hundred percent federal medical assistance percentage; and (b) medicaid payments received from the centers for medicare and medicaid services based on the federal medical assistance percentage that would apply in the absence of state health official letter 16-002 and related guidance.

(13) "Reinvestment account" means the Indian health improvement reinvestment account created in section 5 of this act.

(14) "Reinvestment committee" means the Indian health improvement reinvestment committee established in section 3(4) of this act.

(15) "Tribal organization" has the meaning set forth in 25 U.S.C. Sec. 5304.

(16) "Tribally operated facility" means a health care facility operated by one or more tribes or tribal organizations to provide specialty services, including but not limited to evaluation and treatment services, secure detox services, inpatient psychiatric services, nursing home services, and residential substance use disorder services.

(17) "Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native claims settlement act (43 U.S.C. Sec. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(18) "Urban Indian" means any individual who resides in an urban center and is: (a) A member of a tribe terminated since 1940 and those tribes recognized now or in the future by the state in which they reside, or who is a descendant, in the first or second degree, of any such member; (b) an Eskimo or Aleut or other Alaska Native; (c) considered by the secretary of the interior to be an Indian for any purpose; or (d) considered by the United States secretary of health and human services to be an Indian for purposes of eligibility for Indian health services, including as a California Indian, Eskimo, Aleut, or other Alaska Native.

(19) "Urban Indian organization" means an urban Indian organization, as defined by 25 U.S.C. Sec. 1603.

NEW SECTION. Sec. 3. (1) The governor's Indian health advisory council is established, consisting of:

(a) The following voting members:

(i) One representative from each tribe, designated by the tribal council, who is either the tribe's commission delegate or an individual specifically designated for this role, or his or her designee;

(ii) The chief executive officer of each urban Indian organization, or the urban Indian organization's commission delegate if applicable, or his or her designee;

(iii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(iv) One member from each of the two largest caucuses of the senate, appointed by the president of the senate; and

(v) One member representing the governor's office; and

(b) The following nonvoting members:

(i) One member of the executive leadership team from each of the following state agencies: The authority; the department of children, youth, and families; the department of commerce; the department of corrections; the department of health; the department of social and health services; the office of the insurance commissioner; the office of the superintendent of public instruction; and the Washington health benefit exchange;

(ii) The chief operating officer of each Indian health service area office and service unit, or his or her designee;

(iii) The executive director of the commission, or his or her designee; and

(iv) The executive director of the board, or his or her designee.

(2) The advisory council shall meet at least three times per year when the legislature is not in session, in a forum that offers both in-person and remote participation where everyone can hear and be heard.

(3) The advisory council has the responsibility to:

(a) Adopt the biennial Indian health improvement advisory plan prepared and amended by the reinvestment committee as described in section 4 of this act no later than November 1st of each odd-numbered year;

(b) Address current or proposed policies or actions that have tribal implications and are not able to be resolved or addressed at the agency level;

(c) Facilitate better understanding among advisory council members and their support staff of the Indian health system, American Indian and Alaska Native health disparities and historical trauma, and tribal sovereignty and self-governance;

(d) Provide oversight of contracting and performance of service coordination organizations or service contracting entities as defined in RCW 70.320.010 in order to address their impacts on services to American Indians and Alaska Natives and relationships with Indian health care providers; and

(e) Provide oversight of the Indian health improvement reinvestment account created in section 5 of this act, ensuring that amounts expended from the reinvestment account are consistent with the advisory plan adopted under section 4 of this act.

(4) The reinvestment committee of the advisory council is established, consisting of the following members of the advisory council:

(a) With voting rights on the reinvestment committee, every advisory council member who represents a tribe or an urban Indian organization; and

(b) With nonvoting rights on the reinvestment committee, every advisory council member who represents a state agency, the Indian health service area office or a service unit, the commission, and the board.

(5) The advisory council may appoint technical advisory committees, which may include members of the advisory council, as needed to address specific issues and concerns.

(6) The authority, in conjunction with the represented state agencies on the advisory council, shall supply such information and assistance as are deemed necessary for the advisory council and its committees to carry out its duties under this section.

(7) The authority shall provide (a) administrative and clerical assistance to the advisory council and its committees and (b) technical assistance with the assistance of the commission.

(8) The advisory council meetings, reports and recommendations, and other forms of collaboration described in this chapter support the tribal consultation process but are not a substitute for the requirements for state agencies to conduct consultation or maintain government-to-government relationships with tribes under federal and state law.

NEW SECTION. Sec. 4. (1) With assistance from the authority, the commission, and other member entities of the advisory council, the reinvestment committee of the advisory council shall prepare and amend from time to time a biennial Indian health improvement advisory plan to:

(a) Develop programs directed at raising the health status of American Indians and Alaska Natives and reducing the health inequities that these communities experience; or

(b) Help the state, the Indian health service, tribes, and urban Indian organizations, statewide or in regions, improve delivery systems for American Indians and Alaska Natives by increasing access to care, strengthening continuity of care, and improving population health through investments in capacity and infrastructure.

(2) The advisory plan shall include the following:

(a) An assessment of Indian health and Indian health care in the state;

(b) Specific recommendations for programs, projects, or activities, along with recommended reinvestment account expenditure amounts and priorities for expenditures, for the next two state fiscal bienniums. The programs, projects, and activities may include but are not limited to:

(i) The creation and expansion of facilities operated by Indian health services, tribes, and urban Indian health programs providing evaluation, treatment, and recovery services for opioid use disorder, other substance use disorders, mental illness, or specialty care;

(ii) Improvement in access to, and utilization of, culturally appropriate primary care, mental health, and substance use disorder and recovery services;

(iii) The elimination of barriers to, and maximization of, federal funding of substance use disorder and mental health services under the programs established in chapter 74.09 RCW;

(iv) Increased availability of, and identification of barriers to, crisis and related services established in chapter 71.05 RCW, with recommendations to increase access including, but not limited to, involuntary commitment orders, designated crisis responders, and discharge planning;

(v) Increased access to quality, culturally appropriate, trauma-informed specialty services, including adult and pediatric psychiatric services, medication consultation, and addiction or geriatric psychiatry;

(vi) A third-party administrative entity to provide, arrange, and make payment for services for American Indians and Alaska Natives;

(vii) Expansion of suicide prevention services, including culture-based programming, to instill and fortify cultural practices as a protective factor;

(viii) Expansion of traditional healing services;

(ix) Development of a community health aide program, including a community health aide certification board for the state consistent with 25 U.S.C. Sec. 1616l, and support for community health aide services;

(x) Health information technology capability within tribes and urban Indian organizations to assure the technological capacity to: (A) Produce sound evidence for Indian health care provider best practices; (B) effectively coordinate care between Indian health care providers and non-Indian health care providers; (C) provide interoperability with state claims and reportable data systems, such as for immunizations and reportable conditions; and (D) support patient-centered medical home models, including sufficient resources to purchase and implement certified electronic health record systems, such as hardware, software, training, and staffing;

(xi) Support for care coordination by tribes and other Indian health care providers to mitigate barriers to access to care for American Indians and Alaska Natives, with duties to include without limitation: (A) Follow-up of referred appointments; (B) routine follow-up care for management of chronic disease; (C) transportation; and (D) increasing patient understanding of provider instructions;

(xii) Expanded support for tribal and urban Indian epidemiology centers to create a system of epidemiological analysis that meets the needs of the state's American Indian and Alaska Native population; and

(xiii) Other health care services and public health services that contribute to reducing health inequities for American Indians and Alaska Natives in the state and increasing access to quality, culturally appropriate health care for American Indians and Alaska Natives in the state; and

(c) Review of how programs, projects, or activities that have received investments from the reinvestment account have or have not achieved the objectives and why.

NEW SECTION. Sec. 5. (1) The Indian health improvement reinvestment account is created in the custody of the state treasurer. All receipts from new state savings as defined in section 2 of this act and any other moneys appropriated to the account must be deposited into the account. Expenditures from the account may be used only for projects, programs, and activities authorized by section 4 of this act. Only the director of the authority 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.

(2) Beginning November 1, 2019, the new state savings as defined in section 2 of this act, less the state's administrative costs as agreed upon by the state and the reinvestment committee, shall be deposited into the reinvestment account. With advice from the advisory council, the authority shall develop a report and methodology to identify and track the new state savings. Each fall, to assure alignment with existing budget processes, the methodology selected shall involve the same forecasting procedures that inform the authority's medical assistance and behavioral health appropriations to prospectively identify new state savings each fiscal year, as defined in section 2 of this act.

(3) The authority shall pursue new state savings for medicaid managed care premiums on an actuarial basis and in consultation with tribes.

NEW SECTION. Sec. 6. This chapter may be known and cited as the "Washington Indian health improvement act."

Sec. 7. RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and 2018 c 127 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 Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family 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 future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the 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 pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, ~~((the))~~ the public employees' and retirees' insurance account, ~~((the))~~ the school employees' insurance account, ~~((and))~~ the radiation perpetual maintenance fund, and the Indian health improvement reinvestment account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

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

NEW SECTION. Sec. 8. Sections 1 through 6 of this act constitute a new chapter in Title 43 RCW.

Passed by the Senate April 22, 2019.

Passed by the House April 11, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 283

[Senate Bill 5865]

FILIPINO AMERICAN HISTORY MONTH

AN ACT Relating to declaring October as Filipino American history month; 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 finds that the writings and teachings of American history have often overlooked the role of people of color, among them the history of Filipino Americans, whose heritage spans a colonial, political, economic, and cultural relationship with the United States. The legislature also finds that the earliest documented proof of Filipino presence in the continental United States was on October 18, 1587, when the first "Luzones Indios" set foot in Morro Bay, California. The Filipino American national historical society recognizes the year of 1763 as the date of the first permanent Filipino settlement in the United States in St. Malo Parrish, Louisiana. Subsequent waves of migration followed, and today Filipino Americans continue to make a lasting impact on the history and heritage of Washington state and the United States. In recognition of the critical economic, cultural, social, and other notable contributions by Filipino Americans to Washington state and the United States, the legislature has proclaimed October as Filipino American history month since 2010.

The legislature further finds that the prominence of Filipino and Filipino American population in Washington state warrants official commemoration of the history and heritage of Filipino Americans. Therefore the legislature intends to designate the month of October as Filipino American history month, a period of commemoration that highlights the contributions of Filipino Americans to Washington state and the United States.

NEW SECTION. Sec. 2. A new section is added to chapter 43.117 RCW to read as follows:

October of each year will be known as Filipino American history month. Each October is designated as a time for people of this state to commemorate the contributions of Filipino Americans to the history and heritage of Washington state and the United States.

Passed by the Senate March 5, 2019.

Passed by the House April 17, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 284

[Engrossed Second Substitute House Bill 1112]

HYDROFLUOROCARBON GREENHOUSE GAS EMISSIONS

AN ACT Relating to reducing greenhouse gas emissions from hydrofluorocarbons; amending RCW 70.235.010, 70.94.430, 70.94.431, and 70.94.015; adding a new section to chapter 70.235

RCW; adding a new section to chapter 19.27 RCW; adding a new section to chapter 39.26 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. Sec. 1. (1) The legislature finds that hydrofluorocarbons are air pollutants that pose significant threats to our environment and that safer alternatives for the most damaging hydrofluorocarbons are readily available and cost-effective.

(2) Hydrofluorocarbons came into widespread commercial use as United States environmental protection agency-approved replacements for ozone-depleting substances that were being phased out under an international agreement. However, under a 2017 federal appeals court ruling, while the environmental protection agency had been given the power to originally designate hydrofluorocarbons as suitable replacements for the ozone-depleting substances, the environmental protection agency did not have clear authority to require the replacement of hydrofluorocarbons once the replacement of the original ozone-depleting substances had already occurred.

(3) Because the impacts of climate change will not wait until congress acts to clarify the scope of the environmental protection agency's authority, it falls to the states to provide leadership on addressing hydrofluorocarbons. Doing so will not only help the climate, but will help American businesses retain their positions as global leaders in air conditioning and refrigerant technologies. Although hydrofluorocarbons currently represent a small proportion of the state's greenhouse gas emissions, emissions of hydrofluorocarbons have been rapidly increasing in the United States and worldwide, and they are thousands of times more potent than carbon dioxide. However, hydrofluorocarbons are also a segment of the state's emissions that will be comparatively easy to reduce and eliminate without widespread implications for the way that power is produced, heavy industries operate, or people transport themselves. Substituting or reducing the use of hydrofluorocarbons with the highest global warming potential will provide a significant boost to the state's efforts to reduce its greenhouse gas emissions to the limits established in RCW 70.235.020.

(4) Therefore, it is the intent of the legislature to transition to the use of less damaging hydrofluorocarbons or suitable substitutes in various applications in Washington, in a manner similar to the regulations that were adopted by the environmental protection agency, and that have been subsequently adopted or will be adopted in several other states around the country.

Sec. 2. RCW 70.235.010 and 2010 c 146 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) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Climate advisory team" means the stakeholder group formed in response to executive order 07-02.

(3) "Climate impacts group" means the University of Washington's climate impacts group.

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

(5) "Director" means the director of the department.

(6) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department by rule.

(7) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

(8) "Program" means the department's climate change program.

(9) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.

(10) "Class I substance" and "class II substance" means those substances listed in 42 U.S.C. Sec. 7671a, as it read on November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as those read on January 3, 2017.

(11) "Hydrofluorocarbons" means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.

(12) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

(13) "Residential consumer refrigeration products" has the same meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).

(14) "Retrofit" has the same meaning as defined in section 152 of Subpart F of 40 C.F.R. Part 82, as that section existed as of January 3, 2017.

(15) "Substitute" means a chemical, product substitute, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including, but not limited to, hydrofluorocarbons. "Substitute" does not include 2-BTP or any compound as applied to its use in aerospace fire extinguishing systems.

NEW SECTION. Sec. 3. A new section is added to chapter 70.235 RCW to read as follows:

(1) A person may not offer any product or equipment for sale, lease, or rent, or install or otherwise cause any equipment or product to enter into commerce in Washington if that equipment or product consists of, uses, or will use a substitute, as set forth in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, for the applications or end uses restricted by appendix U or V of the federal regulation, as those read on January 3, 2017, consistent with the deadlines established in subsection (2) of this section. Except where existing equipment is retrofit, nothing in this subsection requires a person that acquired a restricted product or equipment prior to the effective date of the restrictions in subsection (2) of this section to cease use of that product or equipment. Products or equipment manufactured prior to the applicable effective date of the restrictions specified in subsection (2) of this section may be sold, imported, exported, distributed, installed, and used after the specified effective date.

(2) The restrictions under subsection (1) of this section for the following products and equipment identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, take effect beginning:

(a) January 1, 2020, for:

(i) Propellants;

(ii) Rigid polyurethane applications and spray foam, flexible polyurethane, integral skin polyurethane, flexible polyurethane foam, polystyrene extruded sheet, polyolefin, phenolic insulation board, and bunstock;

(iii) Supermarket systems, remote condensing units, stand-alone units, and vending machines;

(b) January 1, 2021, for:

(i) Refrigerated food processing and dispensing equipment;

(ii) Compact residential consumer refrigeration products;

(iii) Polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component spray foam;

(c) January 1, 2022, for residential consumer refrigeration products other than compact and built-in residential consumer refrigeration products;

(d) January 1, 2023, for cold storage warehouses;

(e) January 1, 2023, for built-in residential consumer refrigeration products;

(f) January 1, 2024, for centrifugal chillers and positive displacement chillers; and

(g) On either January 1, 2020, or the effective date of the restrictions identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in (a) through (f) of this subsection.

(3) The department may by rule:

(a) Modify the effective date of a prohibition established in subsection (2) of this section if the department determines that the rule reduces the overall risk to human health or the environment and reflects the earliest date that a substitute is currently or potentially available;

(b) Prohibit the use of a substitute if the department determines that the prohibition reduces the overall risk to human health or the environment and that a lower risk substitute is currently or potentially available;

(c)(i) Adopt a list of approved substitutes, use conditions, or use limits, if any; and

(ii) Add or remove substitutes, use conditions, or use limits to or from the list of approved substitutes if the department determines those substitutes reduce the overall risk to human health and the environment; and

(d) Designate acceptable uses of hydrofluorocarbons for medical uses that are exempt from the requirements of subsection (2) of this section.

(4)(a) Within twelve months of another state's enactment or adoption of restrictions on substitutes applicable to new light duty vehicles, the department may adopt restrictions applicable to the sale, lease, rental, or other introduction into commerce by a manufacturer of new light duty vehicles consistent with the restrictions identified in appendix B, Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017. The department may not adopt restrictions that take effect prior to the effective date of restrictions adopted or enacted in at least one other state.

(b) If the United States environmental protection agency approves a previously prohibited hydrofluorocarbon blend with a global warming potential of seven hundred fifty or less for foam blowing of polystyrene extruded boardstock and billet and rigid polyurethane low-pressure two-component spray foam pursuant to the significant new alternatives policy program under section 7671(k) of the federal clean air act (42 U.S.C. Sec. 7401 et seq.), the department must expeditiously propose a rule consistent with RCW 34.05.320 to conform the requirements established under this section with that federal action.

(5) A manufacturer must disclose the substitutes used in its products or equipment. That disclosure must take the form of:

(a) A label on the equipment or product. The label must meet requirements designated by the department by rule. To the extent feasible, the department must recognize existing labeling that provides sufficient disclosure of the use of substitutes in the product or equipment.

(i) The department must consider labels required by state building codes and other safety standards in its rule making; and

(ii) The department may not require labeling of aircraft and aircraft components subject to certification requirements of the federal aviation administration.

(b) Submitting information about the use of substitutes to the department, upon request.

(i) By December 31, 2019, all manufacturers must notify the department of the status of each product class utilizing hydrofluorocarbons or other substitutes restricted under subsection (1) of this section that the manufacturer sells, offers for sale, leases, installs, or rents in Washington state. This status notification must identify the substitutes used by products or equipment in each product or equipment class in a manner determined by rule by the department.

(ii) Within one hundred twenty days after the date of a restriction put in place under this section, any manufacturer affected by the restriction must provide an updated status notification. This notification must indicate whether the manufacturer has ceased the use of hydrofluorocarbons or substitutes restricted under this section within each product class and, if not, what hydrofluorocarbons or other restricted substitutes remain in use.

(iii) After the effective date of a restriction put in place under this section, any manufacturer must provide an updated status notification when the manufacturer introduces a new or modified product or piece of equipment that uses hydrofluorocarbons or changes the type of hydrofluorocarbons utilized within a product class affected by a restriction. Such a notification must occur within one hundred twenty days of the introduction into commerce in Washington of the product or equipment triggering this notification requirement.

(6) The department may adopt rules to administer, implement, and enforce this section. If the department elects to adopt rules, the department must seek, where feasible and appropriate, to adopt rules, including rules under subsection (4) of this section, that are the same or consistent with the regulatory standards, exemptions, reporting obligations, disclosure requirements, and other compliance requirements of other states or the federal government that have adopted restrictions on the use of hydrofluorocarbons and other substitutes. Prior to the adoption or update of a rule under this section, the department must

identify the sources of information it relied upon, including peer-reviewed science.

(7) For the purposes of implementing the restrictions specified in appendix U of Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017, consistent with this section, the department must interpret the term "aircraft maintenance" to mean activities to support the production, fabrication, manufacture, rework, inspection, maintenance, overhaul, or repair of commercial, civil, or military aircraft, aircraft parts, aerospace vehicles, or aerospace components.

(8) The authority granted by this section to the department for restricting the use of substitutes is supplementary to the department's authority to control air pollution pursuant to chapter 70.94 RCW. Nothing in this section limits the authority of the department under chapter 70.94 RCW.

(9) Except where existing equipment is retrofit, the restrictions of this section do not apply to or limit any use of commercial refrigeration equipment that was installed or in use prior to the effective date of the restrictions established in this section.

Sec. 4. RCW 70.94.430 and 2011 c 96 s 49 are each amended to read as follows:

(1) Any person who knowingly violates any of the provisions of chapter 70.94 or 70.120 RCW, section 3 of this act, or any ordinance, resolution, or regulation in force pursuant thereto is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for up to three hundred sixty-four days, or by both for each separate violation.

(2) Any person who negligently releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for up to three hundred sixty-four days, or both.

(3) Any person who knowingly releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and shall, upon conviction, be punished by a fine of not less than fifty thousand dollars, or by imprisonment for not more than five years, or both.

(4) Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars.

Sec. 5. RCW 70.94.431 and 2013 c 51 s 6 are each amended to read as follows:

(1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, and in addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of this chapter, chapter 70.120 (~~RCW, chapter~~) or 70.310 RCW, section 3 of this act, or any of the

rules in force under such chapters or section may incur a civil penalty in an amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

(b) Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars for each day of continued noncompliance.

(2)(a) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

(b) The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

(3) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(4) All penalties recovered under this section by the department shall be paid into the state treasury and credited to the air pollution control account established in RCW 70.94.015 or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by the department under subsection (1) of this section shall be reduced by the amount of the payment.

(5) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(6) Public or private entities that are recipients or potential recipients of department grants, whether for air quality related activities or not, may have such grants rescinded or withheld by the department for failure to comply with provisions of this chapter.

(7) In addition to other penalties provided by this chapter, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(8) ((By January 1, 1992,)) The department shall develop rules for excusing excess emissions from enforcement action if such excess emissions are unavoidable. The rules shall specify the criteria and procedures for the department and local air authorities to determine whether a period of excess emissions is excusable in accordance with the state implementation plan.

Sec. 6. RCW 70.94.015 and 1998 c 321 s 33 are each amended to read as follows:

(1) The air pollution control account is established in the state treasury. All receipts collected by or on behalf of the department from RCW 70.94.151(2), and receipts from nonpermit program sources under RCW 70.94.152(1) and 70.94.154(7), and all receipts from RCW ((70.94.650, 70.94.660, 82.44.020(2),

~~and 82.50.405))~~ 70.94.6528 and 70.94.6534 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of chapters 70.94 and 70.120 RCW and section 3 of this act.

(2) The amounts collected and allocated in accordance with this section shall be expended upon appropriation except as otherwise provided in this section and in accordance with the following limitations:

Portions of moneys received by the department of ecology from the air pollution control account shall be distributed by the department to local authorities based on:

(a) The level and extent of air quality problems within such authority's jurisdiction;

(b) The costs associated with implementing air pollution regulatory programs by such authority; and

(c) The amount of funding available to such authority from other sources, whether state, federal, or local, that could be used to implement such programs.

(3) The air operating permit account is created in the custody of the state treasurer. All receipts collected by or on behalf of the department from permit program sources under RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7) shall be deposited into the account. Expenditures from the account may be used only for the activities described in RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7). Moneys in the account may be spent only after appropriation.

NEW SECTION. Sec. 7. A new section is added to chapter 19.27 RCW to read as follows:

The building code council shall adopt rules that permit the use of substitutes approved under section 3 of this act and that do not require the use of substitutes that are restricted under section 3 of this act.

NEW SECTION. Sec. 8. The department of ecology, in consultation with the department of commerce and the utilities and transportation commission, must complete a report addressing how to increase the use of refrigerants with a low global warming potential in mobile sources, utility equipment, and consumer appliances, and how to reduce other uses of hydrofluorocarbons in Washington. The report must be submitted to the legislature consistent with RCW 43.01.036 by December 1, 2020, and must include recommendations for how to fund, structure, and prioritize a state program that incentivizes or provides grants to support the elimination of legacy uses of hydrofluorocarbons regulated under section 3 of this act or uses of hydrofluorocarbons not covered by section 3 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 39.26 RCW to read as follows:

(1) The department shall establish purchasing and procurement policies that provide a preference for products that:

(a) Are not restricted under section 3 of this act;

(b) Do not contain hydrofluorocarbons or contain hydrofluorocarbons with a comparatively low global warming potential;

(c) Are not designed to function only in conjunction with hydrofluorocarbons characterized by a comparatively high global warming potential; and

(d) Were not manufactured using hydrofluorocarbons or were manufactured using hydrofluorocarbons with a low global warming potential.

(2) No agency may knowingly purchase products that are not accorded a preference in the purchasing and procurement policies established by the department pursuant to subsection (1) of this section, unless there is no cost-effective and technologically feasible option that is accorded a preference.

(3) Nothing in this section requires the department or any other state agency to breach an existing contract or dispose of stock that has been ordered or is in the possession of the department or other state agency as of the effective date of this section.

(4) By December 1, 2020, and each December 1st of even numbered years thereafter, the department must submit a status report to the appropriate committees of the house of representatives and senate regarding the implementation and compliance of the department and state agencies with this section.

NEW SECTION. Sec. 10. 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 1, 2019.

Passed by the Senate April 22, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 285

[Engrossed Third Substitute House Bill 1257]

ENERGY EFFICIENCY

AN ACT Relating to energy efficiency; amending RCW 19.27A.140, 19.27A.170, 19.27A.025, and 19.27.540; adding new sections to chapter 19.27A RCW; adding a new section to chapter 82.16 RCW; adding new sections to chapter 80.28 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. (1) The legislature finds that state policy encouraging energy efficiency has been extremely successful in reducing energy use, avoiding costly investment in new generating capacity, lowering customer energy bills, and reducing air pollution and greenhouse gas emissions. The state's 2019 biennial energy report indicates that utility conservation investments under chapter 19.285 RCW, the energy independence act, now save consumers more than seven hundred fifty million dollars annually, helping to keep Washington's electricity prices among the lowest in the nation.

(2) Studies by the Northwest power and conservation council and by individual Washington utilities repeatedly show that efficiency is the region's largest, cheapest, lowest risk energy resource; that without it, the Northwest would have needed to invest in additional natural gas-fired generation; and that, looking ahead, efficiency can approach the size of the region's hydropower

system as a regional resource. The Northwest power and conservation council forecasts that with an aggressive new energy efficiency policy, the region can potentially meet one hundred percent of its electricity load growth over the next twenty years with energy efficiency.

(3) Energy efficiency investments that reduce energy use in buildings bring cobenefits that directly impact Washingtonians' quality of life. These benefits include improved indoor air quality, more comfortable homes and workplaces, and lower tenant energy bills. The legislature notes that according to the United States department of energy's energy and employment report, 2017, the energy efficiency sector has created more than sixty-five thousand jobs in the state, more than two-thirds of which are in the construction sector, and that the number continues to grow.

(4) Considering the benefits of and the need for additional energy efficiency to meet regional energy demand, the legislature notes that attaining as much of this resource as possible from the buildings sector can have a significant effect on state greenhouse gas emissions by deferring or displacing the need for natural gas-fired electricity generation and reducing the direct use of natural gas. Buildings represent the second largest source of greenhouse gas emissions in Washington and emissions from the buildings sector have grown by fifty percent since 1990, far outpacing all other emission sources.

(5) The legislature therefore determines that it is in the state's interest to maximize the full potential of energy efficiency standards, retrofit incentives, utility programs, and building codes to keep energy costs low and to meet statutory goals for increased building efficiency and reduced greenhouse gas emissions.

(6) It is the intent of this act to provide incentives and regulations that encourage greater energy efficiency in all aspects of new and existing buildings, including building design, energy delivery, and utilization and operations. This act:

(a) Establishes energy performance standards for larger existing commercial buildings;

(b) Provides financial incentives and technical assistance for building owners taking early action to meet these standards before they are required to be met;

(c) Enhances access to commercial building energy consumption data in order to assist with monitoring progress toward meeting energy performance standards; and

(d) Establishes efficiency performance requirements for natural gas distribution companies, recognizing the significant contribution of natural gas to the state's greenhouse gas emissions, the role that natural gas plays in heating buildings and powering equipment within buildings across the state, and the greenhouse gas reduction benefits associated with substituting renewable natural gas for fossil fuels.

NEW SECTION. Sec. 2. A new section is added to chapter 19.27A RCW to read as follows:

The definitions in this section apply throughout sections 3 through 6 of this act unless the context clearly requires otherwise.

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural

products, and that is not a place used by the public or a place of human habitation or employment where agricultural products are processed, treated, or packaged.

(2) "Baseline energy use intensity" means a building's weather normalized energy use intensity measured the previous year to making an application for an incentive under section 4 of this act.

(3) "Building owner" means an individual or entity possessing title to a building.

(4) "Building tenant" means a person or entity occupying or holding possession of a building or premises pursuant to a rental agreement.

(5) "Conditional compliance" means a temporary compliance method used by building owners that demonstrate the owner has implemented energy use reduction strategies required by the standard, but has not demonstrated full compliance with the energy use intensity target.

(6) "Consumer-owned utility" has the same meaning as defined in RCW 19.27A.140.

(7) "Covered commercial building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds fifty thousand gross square feet, excluding the parking garage area.

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

(9) "Director" means the director of the department of commerce or the director's designee.

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

(11) "Eligible building owner" means: (a) The owner of a covered commercial building required to comply with the standard established in section 3 of this act; or (b) the owner of a multifamily residential building where the floor area exceeds fifty thousand gross square feet, excluding the parking garage area.

(12) "Energy" includes: Electricity, including electricity delivered through the electric grid and electricity generated at the building premises using solar or wind energy resources; natural gas; district steam; district hot water; district chilled water; propane; fuel oil; wood; coal; or other fuels used to meet the energy loads of a building.

(13) "Energy use intensity" means a measurement that normalizes a building's site energy use relative to its size. A building's energy use intensity is calculated by dividing the total net energy consumed in one year by the gross floor area of the building, excluding the parking garage. "Energy use intensity" is reported as a value of thousand British thermal units per square foot per year.

(14) "Energy use intensity target" means the net energy use intensity of a covered commercial building that has been established for the purposes of complying with the standard established under section 3 of this act.

(15) "Gas company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receiver appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any gas plant within this state.

(16) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(17)(a) "Gross floor area" means the total number of square feet measured between the exterior surfaces of the enclosing fixed walls of a building, including all supporting functions such as offices, lobbies, restrooms, equipment storage areas, mechanical rooms, break rooms, and elevator shafts.

(b) "Gross floor area" does not include outside bays or docks.

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

(19) "Multifamily residential building" means a building containing sleeping units or more than two dwelling units where occupants are primarily permanent in nature.

(20) "Net energy use" means the sum of metered and bulk fuel energy entering the building, minus the sum of metered energy leaving the building.

(21) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

(22) "Savings-to-investment ratio" means the ratio of the total present value savings to the total present value costs of a bundle of an energy or water conservation measure estimated over the projected useful life of each measure. The numerator of the ratio is the present value of net savings in energy or water and nonfuel or nonwater operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

(23) "Standard" means the state energy performance standard for covered commercial buildings established under section 3 of this act.

(24) "Thermal energy company" has the same meaning as defined in RCW 80.04.550.

(25) "Weather normalized" means a method for modifying the measured building energy use in a specific weather year to energy use under normal weather conditions.

NEW SECTION. Sec. 3. A new section is added to chapter 19.27A RCW 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 section 4 of this act. 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.

(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 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 percent throughout the calendar year prior to the building owner compliance schedule established under subsection (8) of this section;

(iii) The sum of the buildings gross floor area minus unconditioned and semiconditioned spaces, as defined in the Washington state energy code, is less than fifty thousand 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 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 gross square feet, June 1, 2026;

(b) For a building with more than ninety thousand gross square feet but less than two hundred twenty thousand and one gross square feet, June 1, 2027; and

(c) For a building with more than fifty thousand gross square feet but less than ninety thousand and one 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 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 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 70.164.030.

(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 sections 4 and 5 of this

act, and any other significant information associated with the implementation of this section.

NEW SECTION. Sec. 4. A new section is added to chapter 19.27A RCW to read as follows:

(1) The department must establish a state energy performance standard early adoption incentive program consistent with the requirements of this section.

(2) The department must adopt application and reporting requirements for the incentive program. Building energy reporting for the incentive program must be consistent with the energy reporting requirements established under section 3 of this act.

(3) Upon receiving documentation demonstrating that a building owner qualifies for an incentive under this section, the department must authorize each applicable entity administering incentive payments, as provided in section 6 of this act, to make an incentive payment to the building owner. When a building is served by more than one entity offering incentives or more than one type of fuel, incentive payments must be proportional to the energy use intensity reduction of each specific fuel provided by each entity.

(4) An eligible building owner may receive an incentive payment in the amounts specified in subsection (6) of this section only if the following requirements are met:

(a) The building is either: (i) A covered commercial building subject to the requirements of the standard established under section 3 of this act; or (ii) a multifamily residential building where the floor area exceeds fifty thousand gross square feet, excluding the parking garage area;

(b) The building's baseline energy use intensity exceeds its applicable energy use intensity target by at least fifteen energy use intensity units;

(c) At least one electric utility, gas company, or thermal energy company providing or delivering energy to the covered commercial building is participating in the incentive program by administering incentive payments as provided in section 6 of this act; and

(d) The building owner complies with any other requirements established by the department.

(5)(a) An eligible building owner who meets the requirements of subsection (4) of this section may submit an application to the department for an incentive payment in a form and manner prescribed by the department. The application must be submitted in accordance with the following schedule:

(i) For a building with more than two hundred twenty thousand gross square feet, beginning July 1, 2021, through June 1, 2025;

(ii) For a building with more than ninety thousand gross square feet but less than two hundred twenty thousand and one gross square feet, beginning July 1, 2021, through June 1, 2026; and

(iii) For a building with more than fifty thousand gross square feet but less than ninety thousand and one gross square feet, beginning July 1, 2021, through June 1, 2027.

(b) The department must review each application and determine whether the applicant is eligible for the incentive program and if funds are available for the incentive payment within the limitation established in section 5 of this act. If the department certifies an application, it must provide verification to the building

owner and each entity participating as provided in section 6 of this act and providing service to the building owner.

(6) An eligible building owner that demonstrates early compliance with the applicable energy use intensity target under the standard established under section 3 of this act may receive a base incentive payment of eighty-five cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces.

(7) The incentives provided in subsection (6) of this section are subject to the limitations and requirements of this section, including any rules or procedures implementing this section.

(8) The department must establish requirements for the verification of energy consumption by the building owner and each participating electric utility, gas company, and thermal energy company.

(9) The department must provide an administrative process for an eligible building owner to appeal a determination of an incentive eligibility or amount.

(10) By September 30, 2025, and every two years thereafter, the department must report to the appropriate committees of the legislature on the results of the incentive program under this section and may provide recommendations to improve the effectiveness of the program.

(11) The department may adopt rules to implement this section.

NEW SECTION. Sec. 5. A new section is added to chapter 19.27A RCW to read as follows:

The department may not issue a certification for an incentive application under section 4 of this act if doing so is likely to result in total incentive payments under section 4 of this act in excess of seventy-five million dollars.

NEW SECTION. Sec. 6. A new section is added to chapter 19.27A RCW to read as follows:

(1)(a) Each qualifying utility must administer incentive payments for the state energy performance standard early adoption incentive program established in section 4 of this act on behalf of its customers who are eligible building owners of covered commercial buildings or multifamily residential buildings, consistent with the requirements of this section. Any thermal energy company, electric utility, or gas company not otherwise required to administer incentive payments may voluntarily participate by providing notice to the department in a form and manner prescribed by the department.

(b) Nothing in this subsection (1) requires a qualifying utility to administer incentive payments for the state energy performance standard early adoption incentive program established in section 4 of this act for which the qualifying utility is not allowed a credit against taxes due under this chapter.

(2) An entity that administers the payments for the incentive program under this section must administer the program in a manner that is consistent with the standard established and any rules adopted by the department under sections 3 and 4 of this act.

(3) Upon receiving notification from the department that a building owner has qualified for an incentive payment, each entity that administers incentive payments under this section must make incentive payments to its customers who are eligible building owners of covered commercial buildings or multifamily residential buildings who qualify as provided under this section and at rates

specified in section 4(6) of this act. When a building is served by more than one entity administering incentive payments, incentive payments must be proportional to the energy use intensity reduction of the participating entities' fuel.

(4) The participation by an entity in the administration of incentive payments under this section does not relieve the entity of any obligation that may otherwise exist or be established to provide customer energy efficiency programs or incentives.

(5) An entity that administers the payments for the incentive program under this section is not liable for excess payments made in reliance on amounts reported by the department as due and payable as provided under section 4 of this act, if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

NEW SECTION. Sec. 7. This section is the tax preference performance statement for the tax preference contained in section 8, chapter . . . , Laws of 2019 (section 8 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.

(1) The legislature categorizes this tax preference as one intended to induce implementation of building energy efficiency measures, as indicated in section 4 of this act.

(2) It is the legislature's specific public policy objective to increase energy efficiency and the use of renewable fuels that reduce the amount of greenhouse gas emissions in Washington. It is the legislature's intent to provide a credit against the taxes owing by utilities under chapter 82.16 RCW for the incentives provided for the implementation by eligible building owners of energy efficiency and renewable energy measures.

(3) If a review finds that measurable energy savings have increased in covered commercial buildings for which building owners are receiving an incentive payment from a qualifying utility, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to the number of building owners receiving an incentive payment from qualifying utilities taking the public utility tax preference under section 8 of this act, the amount of the incentive payment, and the energy use intensity reduction of the buildings as a result of the incentive program, as reported by the department of commerce.

NEW SECTION. Sec. 8. A new section is added to chapter 82.16 RCW to read as follows:

(1) Subject to the requirements of this section, a light and power business or a gas distribution business is allowed a credit against taxes due under this chapter in an amount equal to:

(a) Incentive payments made in any calendar year under section 4 of this act; and

(b) Documented administrative cost not to exceed eight percent of the incentive payments.

(2) The credit must be taken in a form and manner as required by the department.

(3) Credit must be claimed against taxes due under this chapter for the incentive payments made and administrative expenses incurred. Credit earned in one calendar year may not be carried backward but may be claimed against taxes due under this chapter during the same calendar year and for the following two calendar years. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds may not be granted in the place of a credit.

(4)(a) Except as provided in (c) of this subsection, any business that has claimed credit in excess of the amount of credit the business earned under subsection (1) of this section must repay the amount of tax against which the excess credit was claimed.

(b) The department must assess interest on the taxes due under this subsection. Interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and accrues until the taxes against which the credit was claimed are repaid. The department must provide written notice of the amount due under this subsection and that the amount due must be paid within thirty days of the date of the notice. The department may not impose penalties as provided in chapter 82.32 RCW on taxes due under this subsection unless the amount due is not paid in full by the due date in the notice.

(c) A business is not liable for excess credits claimed in reliance on amounts reported to the business by the department of commerce as due and payable as provided under section 4 of this act, if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

(5) The amount of credit taken under this section and the identity of a business that takes the credit is not confidential taxpayer information under RCW 82.32.330 and is subject to disclosure.

(6) This section expires June 30, 2032.

Sec. 9. RCW 19.27A.140 and 2011 1st sp.s. c 43 s 245 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes 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, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

(7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

(8) "Energy service company" has the same meaning as in RCW 43.19.670.

(9) "Enterprise services" means the department of enterprise services.

(10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

(12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

(14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

(15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

(16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of enterprise services.

(17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

(18) "Qualifying public agency" includes all state agencies, colleges, and universities.

(19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

(20) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

(21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

(22) "Building owner" has the same meaning as defined in section 2 of this act.

(23) "Covered commercial building" has the same meaning as defined in section 2 of this act.

Sec. 10. RCW 19.27A.170 and 2009 c 423 s 6 are each amended to read as follows:

(1) On and after January 1, 2010, qualifying utilities shall maintain records of the energy consumption data of all nonresidential and qualifying public agency buildings to which they provide service. This data must be maintained for at least the most recent twelve months in a format compatible for uploading to the United States environmental protection agency's energy star portfolio manager.

(2) On and after January 1, 2010, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, a qualifying utility shall upload the energy consumption data for the accounts specified by the owner or operator for a building to the United States environmental protection agency's energy star portfolio manager in a form that does not disclose personally identifying information.

(3) In carrying out the requirements of this section, a qualifying utility shall use any method for providing the specified data in order to maximize efficiency and minimize overall program cost. Qualifying utilities are encouraged to consult with the United States environmental protection agency and their customers in developing reasonable reporting options.

(4) Disclosure of nonpublic nonresidential benchmarking data and ratings required under subsection (5) of this section will be phased in as follows:

(a) By January 1, 2011, for buildings greater than fifty thousand square feet; and

(b) By January 1, 2012, for buildings greater than ten thousand square feet.

(5) Based on the size guidelines in subsection (4) of this section, a building owner or operator, or their agent, of a nonresidential building shall disclose the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender for the most recent continuously occupied twelve-month period. A building owner or operator, or their agent, who delivers United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender is not required to provide additional information regarding energy consumption, and the information is deemed to be

adequate to inform the prospective buyer, lessee, or lender regarding the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings for the most recent twelve-month period for the building that is being sold, leased, financed, or refinanced.

(6) Notwithstanding subsections (4) and (5) of this section, nothing in this section increases or decreases the duties, if any, of a building owner, operator, or their agent under this chapter or alters the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

(7) An electric or gas utility that is not a qualifying utility must either offer the upload service specified in subsection (2) of this section or provide customers who are building owners of covered commercial buildings with consumption data in an electronic document formatted for direct upload to the United States environmental protection agency's energy star portfolio manager. Within sixty days of receiving a written or electronic request and authorization of a building owner, the utility must provide the building owner with monthly energy consumption data as required to benchmark the specified building.

(8) For any covered commercial building with three or more tenants, an electric or gas utility must, upon request of the building owner, provide the building owner with aggregated monthly energy consumption data without requiring prior consent from tenants.

(9) Each electric or gas utility must ensure that all data provided in compliance with this section does not contain personally identifiable information or customer-specific billing information about tenants of a covered commercial building.

NEW SECTION. Sec. 11. A new section is added to chapter 80.28 RCW to read as follows:

Each gas company must identify and acquire all conservation measures that are available and cost-effective. Each company must establish an acquisition target every two years and must demonstrate that the target will result in the acquisition of all resources identified as available and cost-effective. The cost-effectiveness analysis required by this section must include the costs of greenhouse gas emissions established in section 15 of this act. The targets must be based on a conservation potential assessment prepared by an independent third party and approved by the commission. Conservation targets must be approved by order by the commission. The initial conservation target must take effect by 2022.

NEW SECTION. Sec. 12. (1) The legislature finds and declares that:

(a) Renewable natural gas provides benefits to natural gas utility customers and to the public; and

(b) The development of renewable natural gas resources should be encouraged to support a smooth transition to a low carbon energy economy in Washington.

(2) It is the policy of the state to provide clear and reliable guidelines for gas companies that opt to supply renewable natural gas resources to serve their customers and that ensure robust ratepayer protections.

NEW SECTION. Sec. 13. A new section is added to chapter 80.28 RCW to read as follows:

(1) A natural gas company may propose a renewable natural gas program under which the company would supply renewable natural gas for a portion of the natural gas sold or delivered to its retail customers. The renewable natural gas program is subject to review and approval by the commission. The customer charge for a renewable natural gas program may not exceed five percent of the amount charged to retail customers for natural gas.

(2) The environmental attributes of renewable natural gas provided under this section must be retired using procedures established by the commission and may not be used for any other purpose. The commission must approve procedures for banking and transfer of environmental attributes.

(3) As used in this section, "renewable natural gas" includes renewable natural gas as defined in RCW 54.04.190. The commission may approve inclusion of other sources of gas if those sources are produced without consumption of fossil fuels.

NEW SECTION. Sec. 14. A new section is added to chapter 80.28 RCW to read as follows:

(1) Each gas company must offer by tariff a voluntary renewable natural gas service available to all customers to replace any portion of the natural gas that would otherwise be provided by the gas company. The tariff may provide reasonable limits on participation based on the availability of renewable natural gas and may use environmental attributes of renewable natural gas combined with natural gas. The voluntary renewable natural gas service must include delivery to, or the retirement on behalf of, the customer of all environmental attributes associated with the renewable natural gas.

(2) For the purposes of this section, "renewable natural gas" includes renewable natural gas as defined in RCW 54.04.190. The commission may approve inclusion of other sources of gas if those sources are produced without consumption of fossil fuels.

NEW SECTION. Sec. 15. A new section is added to chapter 80.28 RCW to read as follows:

For the purposes of section 11 of this act, the cost of greenhouse gas emissions resulting from the use of natural gas, including the effect of emissions occurring in the gathering, transmission, and distribution of natural gas to the end user is equal to the cost per metric ton of carbon dioxide emissions, using the two and one-half percent discount rate, listed in table 2, Technical Support Document: Technical update of the social cost of carbon for regulatory impact analysis under Executive Order 12866, published by the interagency working group on social cost of greenhouse gases of the United States government, August 2016. The commission must adjust the costs established in this section to reflect the effect of inflation.

NEW SECTION. Sec. 16. A new section is added to chapter 80.28 RCW to read as follows:

The commission must monitor the greenhouse gas emissions resulting from natural gas and renewable natural gas delivered by each gas company to its customers, relative to a proportionate share of the state's greenhouse gas emissions reduction goal. The commission must report to the governor by January 1, 2020, and every three years thereafter, an assessment of whether the gas companies are on track to meet a proportionate share of the state's

greenhouse gas emissions reduction goal. The commission may rely on reports submitted by gas companies to the United States environmental protection agency or other governmental agencies in complying with this section.

Sec. 17. RCW 19.27A.025 and 1991 c 122 s 3 are each amended to read as follows:

(1) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 1986 edition, as amended. The state building code council may, by rule adopted pursuant to chapter 34.05 RCW, amend that code's requirements for new nonresidential buildings provided that:

(a) Such amendments increase the energy efficiency of typical newly constructed nonresidential buildings; and

(b) Any new measures, standards, or requirements adopted must be technically feasible, commercially available, and ~~((cost-effective to building owners and tenants))~~ developed to yield the lowest overall cost to the building owner and occupant while meeting the energy reduction goals established under RCW 19.27A.160.

(2) In considering amendments to the state energy code for nonresidential buildings, the state building code council shall establish and consult with a technical advisory committee including representatives of appropriate state agencies, local governments, general contractors, building owners and managers, design professionals, utilities, and other interested and affected parties.

(3) Decisions to amend the Washington state energy code for new nonresidential buildings shall be made prior to December 15th of any year and shall not take effect before the end of the regular legislative session in the next year. Any disputed provisions within an amendment presented to the legislature shall be approved by the legislature before going into effect. A disputed provision is one which was adopted by the state building code council with less than a two-thirds majority vote. Substantial amendments to the code shall be adopted no more frequently than every three years.

Sec. 18. RCW 19.27.540 and 2009 c 459 s 16 are each amended to read as follows:

(1) The building code council shall adopt rules for electric vehicle infrastructure requirements. Rules adopted by the state building code council must consider applicable national and international standards and be consistent with rules adopted under RCW 19.28.281.

(2)(a) Except as provided in (b) of this subsection, the rules adopted under this section must require electric vehicle charging capability at all new buildings that provide on-site parking. Where parking is provided, the greater of one parking space or ten percent of parking spaces, rounded to the next whole number, must be provided with wiring or raceway sized to accommodate 208/240 V 40-amp or equivalent electric vehicle charging. Electrical rooms serving buildings with on-site parking must be sized to accommodate the potential for electrical equipment and distribution required to serve a minimum of twenty percent of the total parking spaces with 208/240 V 40-amp or equivalent electric vehicle charging. Load management infrastructure may be used to adjust the size and capacity of the required building electric service equipment and circuits on the customer facilities, as well as electric utility

owned infrastructure, as allowed by applicable local and national electrical code. For accessible parking spaces, the greater of one parking space or ten percent of accessible parking spaces, rounded to the next whole number, must be provided with electric vehicle charging infrastructure that may also serve adjacent parking spaces not designated as accessible parking.

(b) For occupancies classified as assembly, education, or mercantile, the requirements of this section apply only to employee parking spaces. The requirements of this section do not apply to occupancies classified as residential R-3, utility, or miscellaneous.

(c) The required rules required under this subsection must be implemented by July 1, 2021.

Passed by the House April 18, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 286

[Second Substitute House Bill 1444]

APPLIANCE EFFICIENCY STANDARDS

AN ACT Relating to appliance efficiency standards; amending RCW 19.260.010, 19.260.030, 19.260.040, 19.260.050, 19.260.060, and 19.260.070; reenacting and amending RCW 19.260.020; adding a new section to chapter 19.260 RCW; creating a new section; and repealing RCW 19.27.170.

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

Sec. 1. RCW 19.260.010 and 2005 c 298 s 1 are each amended to read as follows:

The legislature finds that appliance standards and design requirements:

~~(1) ((According to estimates of the department of community, trade, and economic development, the efficiency standards set forth in chapter 298, Laws of 2005 will save nine hundred thousand megawatt-hours of electricity, thirteen million therms of natural gas, and one billion seven hundred million gallons of water in the year 2020, fourteen years after the standards have become effective, with a total net present value to buyers of four hundred ninety million dollars in 2020.~~

~~(2) Efficiency standards))~~ For certain products sold or installed in the state assure consumers and businesses that such products meet minimum efficiency performance levels thus saving money on utility bills.

~~((3) Efficiency standards))~~ (2) Save energy and reduce pollution and other environmental impacts associated with the production, distribution, and use of electricity and natural gas.

~~((4) Efficiency standards))~~ (3) Contribute to the economy of Washington by helping to better balance energy supply and demand, thus reducing pressure for higher natural gas and electricity prices. By saving consumers and businesses money on energy bills, efficiency standards help the state and local economy, since energy bill savings can be spent on local goods and services.

~~((5) Efficiency standards))~~ (4) Can make electricity systems more reliable by reducing the strain on the electricity grid during peak demand periods.

Furthermore, improved energy efficiency can reduce or delay the need for new power plants, power transmission lines, and power distribution system upgrades.

(5) Help ensure renters have the same access to energy efficient appliances as homeowners.

Sec. 2. RCW 19.260.020 and 2009 c 565 s 18 and 2009 c 501 s 1 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) ("Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.~~

~~(2))~~ (2)) "Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.

~~((3))~~ (2) "Commercial hot food holding cabinet" means a heated, fully enclosed compartment, with one or more solid or partial glass doors, that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers, or cook and hold appliances.

~~((4)(a))~~ (4)(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (i) incorporate most components involved in the vapor compression cycle and the refrigerated compartment in a single cabinet; and (ii) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(b) "Commercial refrigerators and freezers" does not include: (i) Products with 85 cubic feet or more of internal volume; (ii) walk-in refrigerators or freezers; (iii) consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.; (iv) products without doors; or (v) freezers specifically designed for ice cream.

~~(5))~~ (3) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

~~((6))~~ (4) "Cook and hold appliance" means a multiple mode appliance intended for cooking food that may be used to hold the temperature of the food that has been cooked in the same appliance.

~~((7))~~ (5) "Department" means the department of commerce.

~~((8))~~ (6) "Drawer warmer" means an appliance that consists of one or more heated drawers and that is designed to hold hot food that has been cooked in a separate appliance at a specified temperature.

~~((9))~~ (7) "Heated glass merchandising cabinet" means an appliance with a heated cabinet constructed of glass or clear plastic doors which, with seventy percent or more clear area, is designed to display and maintain the temperature of hot food that has been cooked in a separate appliance.

~~((10))~~ (8) "Hot water dispenser" means a small electric water heater that has a measured storage volume of no greater than one gallon.

~~((41))~~ (9) "Mini-tank electric water heater" means a small electric water heater that has a measured storage volume of more than one gallon and a rated storage volume of less than twenty gallons.

~~((12) "Pass through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.~~

(43)) (10) "Point-of-use water dispenser" means a water dispenser that uses a pressurized water utility connection as the source of potable water.

~~((14) "Pool heater" means an appliance designed for heating nonpotable water contained at atmospheric pressure for swimming pools, spas, hot tubs, and similar applications.~~

(45)) (11) "Portable electric spa" means a factory-built electric spa or hot tub, ~~((supplied with equipment for heating and circulating water))~~ which may or may not include any combination of integral controls, water heating, or water circulating equipment.

~~((16) "Reach in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll in or roll through cabinets or pass through cabinets.~~

(47)) (12) "Residential pool pump" means a pump used to circulate and filter pool water in order to maintain clarity and sanitation.

~~((18)(a) "Roll in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.~~

(b) "Roll through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.

(19) "Showerhead" means a device through which water is discharged for a shower bath.

~~(20) "Showerhead tub spout diverter combination" means a group of plumbing fittings sold as a matched set and consisting of a control valve, a tub spout diverter, and a showerhead.~~

(21) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and falls into one of the following categories:

(a) A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches; or

(b) A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

(22) "Tub spout diverter" means a device designed to stop the flow of water into a bathtub and to divert it so that the water discharges through a showerhead.

~~(23) "Wine chillers designed and sold for use by an individual" means refrigerators designed and sold for the cooling and storage of wine by an individual.)~~

(13) "Commercial dishwasher" means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution, with or without blasting media granules, and a sanitizing rinse.

(14) "Commercial fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element of band-wrapped vessel (electric fryers) or by heat transfer from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid (gas fryers).

(15) "Commercial steam cooker" means a device with one or more food-steaming compartments in which the energy in the steam is transferred to the food by direct contact. Models may include countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

(16) "Air compressor" means a compressor designed to compress air that has an inlet open to the atmosphere or other source of air and is made up of a compression element (bare compressor), a driver or drivers, mechanical equipment to drive the compressor element, and any ancillary equipment.

(17) "Compressor" means a machine or apparatus that converts different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher-pressure values above atmospheric pressure and has a pressure ratio at full-load operating pressure greater than 1.3.

(18) "General service lamp" has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

(19) "High color rendering index fluorescent lamp" or "high CRI fluorescent lamp" means a fluorescent lamp with a color rendering index of eighty-seven or greater that is not a compact fluorescent lamp.

(20) "Portable air conditioner" means a portable encased assembly, other than a packaged terminal air conditioner, room air conditioner, or dehumidifier, that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. It includes a source of refrigeration and may include additional means for air circulation and heating and may be a single-duct or a dual-duct portable air conditioner.

(21) "Residential ventilating fan" means a ceiling, wall-mounted, or remotely mounted in-line fan designed to be used in a bathroom or utility room whose purpose is to move objectionable air from inside the building to the outdoors.

(22) "Signage display" means an analog or digital device designed primarily for the display for computer-generated signals that is not marketed for use as a computer monitor or a television.

(23) "Spray sprinkler body" means the exterior case or shell of a sprinkler incorporating a means of connection to the piping system designed to convey water to a nozzle or orifice.

(24) "Uninterruptible power supply" means a battery charger consisting of a number of converters, switches, and energy storage devices such as batteries, constituting a power system for maintaining continuity of load power in case of input power failure.

(25) "Water cooler" means a freestanding device that consumes energy to cool or heat potable water, including cold only units, hot and cold units, cook and cold units, storage-type units, and on-demand units.

(26) "Pressure regulator" means a device that maintains constant operating pressure immediately downstream from the device, given higher pressure upstream.

(27) "ANSI" means the American national standards institute.

(28) "CTA" means the consumer technology association.

(29) "Electric storage water heater" means a consumer product that uses electricity as the energy source to heat domestic potable water, has a nameplate input rating of twelve kilowatts or less, contains nominally forty gallons but no more than one hundred twenty gallons of rated hot water storage volume, and supplies a maximum hot water delivery temperature less than one hundred eighty degrees fahrenheit.

Sec. 3. RCW 19.260.030 and 2009 c 501 s 2 are each amended to read as follows:

(1) This chapter applies to the following types of new products sold, offered for sale, or installed in the state:

~~(a) Automatic commercial ice cube machines;~~

~~(b) Commercial refrigerators and freezers;~~

~~(c) State-regulated incandescent reflector lamps;~~

~~(d) Wine chillers designed and sold for use by an individual;~~

~~(e)) Hot water dispensers and mini-tank electric water heaters;~~

~~((f)) (b) Bottle-type water dispensers and point-of-use water dispensers;~~

~~((g) Pool heaters,)) (c) Residential pool pumps((z)) and portable electric spas;~~

~~((h)) (d) Tub spout diverters; ((and~~

~~(i)) (e) Commercial hot food holding cabinets;~~

(f) Air compressors;

(g) Commercial fryers, commercial dishwashers, and commercial steam cookers;

(h) Computers and computer monitors;

(i) Faucets;

(j) High CRI fluorescent lamps;

(k) Portable air conditioners;

(l) Residential ventilating fans;

(m) Showerheads;

(n) Spray sprinkler bodies;

(o) Uninterruptible power supplies;

(p) Urinals and water closets;

(q) Water coolers;

(r) General service lamps; and

(s) Electric storage water heaters.

(2) This chapter applies equally to products whether they are sold, offered for sale, or installed as stand-alone products or as components of other products.

(3) This chapter does not apply to:

(a) New products manufactured in the state and sold outside the state;

(b) New products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state;

(c) Products installed in mobile manufactured homes at the time of construction; or

(d) Products designed expressly for installation and use in recreational vehicles.

Sec. 4. RCW 19.260.040 and 2009 c 501 s 3 are each amended to read as follows:

Except as provided in subsection (1) of this section, the minimum efficiency standards specified in this section apply to the types of new products set forth in RCW 19.260.030 as of the effective dates set forth in RCW 19.260.050.

~~(1)((a) Automatic commercial ice cube machines must have daily energy use and daily water use no greater than the applicable values in the following table:~~

Equipment type	Type of cooling	Harvest rate (lbs. ice/24 hrs.)	Maximum energy use (kWh/100 lbs.)	Maximum condenser water use (gallons/100 lbs. ice)
Ice-making head	water	<500	7.80 – .0055H	200 – .022H
		≥500 < 1436	5.58 – .0011H	200 – .022H
		≥1436	4.0	200 – .022H
Ice-making head	air	450	10.26 – .0086H	Not applicable
		≥450	6.89 – .0011H	Not applicable
Remote-condensing but not remote-compressor	air	<1000	8.85 – .0038H	Not applicable
		≥1000	5.10	Not applicable
Remote-condensing and remote-compressor	air	<934	8.85 – .0038H	Not applicable
		≥934	5.3	Not applicable
Self-contained models	water	<200	11.40 – .0190H	191 – .0315H
		≥200	7.60	191 – .0315H
Self-contained models	air	<175	18.0 – .0469H	Not applicable
		≥175	9.80	Not applicable

~~Where H= harvest rate in pounds per twenty-four hours which must be reported within 5% of the tested value. "Maximum water use" applies only to water used for the condenser.~~

~~(b) For purposes of this section, automatic commercial ice cube machines shall be tested in accordance with the ARI 810-2003 test method as published by the air conditioning and refrigeration institute. Ice-making heads include all automatic commercial ice cube machines that are not split system ice makers or self-contained models as defined in ARI 810-2003.~~

~~(2)(a) Commercial refrigerators and freezers must meet the applicable requirements listed in the following table:~~

Equipment Type	Doors	Maximum Daily Energy Consumption (kWh)
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators	Solid	$0.10V + 2.04$
	Transparent	$0.12V + 3.34$
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are "pulldown" refrigerators	Transparent	$.126V + 3.51$
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are freezers	Solid	$0.40V + 1.38$
	Transparent	$0.75V + 4.10$
Reach-in cabinets that are refrigerator freezers with an AV of 5.19 or higher	Solid	$0.27AV - 0.71$

kWh= kilowatt-hours

V= total volume (ft³)

AV= adjusted volume = [1.63 x freezer volume (ft³)] + refrigerator volume (ft³)

~~(b) For purposes of this section, "pulldown" designates products designed to take a fully stocked refrigerator with beverages at 90 degrees Fahrenheit and cool those beverages to a stable temperature of 38 degrees Fahrenheit within 12 hours or less. Daily energy consumption shall be measured in accordance with the American national standards institute/American society of heating, refrigerating and air conditioning engineers test method 117-2002, except that the back-loading doors of pass-through and roll-through refrigerators and freezers must remain closed throughout the test, and except that the controls of all appliances must be adjusted to obtain the following product temperatures:~~

Product or compartment type	Integrated average product temperature in degrees Fahrenheit
Refrigerator	38 ± 2
Freezer	0 ± 2

~~(3)(a) The lamp electrical power input of state-regulated incandescent reflector lamps shall meet the minimum average lamp efficacy requirements for~~

~~federally regulated incandescent reflector lamps specified in 42 U.S.C. Sec. 6295(i)(1)(A)-(B).~~

(b) The following types of incandescent lamps are exempt from these requirements:

(i) Lamps rated at fifty watts or less of the following types: BR 30, ER 30, BR 40, and ER 40;

(ii) Lamps rated at sixty five watts of the following types: BR 30, BR 40, and ER 40; and

(iii) R 20 lamps of forty five watts or less.

(4)(a) Wine chillers designed and sold for use by an individual must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of July 26, 2009.

(b) Wine chillers designed and sold for use by an individual shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.

(5)) The department may adopt by rule a more recent version of any standard or test method established in this section, including any product definition associated with the standard or test method, in order to maintain or improve consistency with other comparable standards in other states.

(2)(a) The standby energy consumption of bottle-type water dispensers, and point-of-use water dispensers, dispensing both hot and cold water, manufactured on or after January 1, 2010, shall not exceed 1.2 kWh/day.

(b) The test method for water dispensers shall be the environmental protection agency energy star program requirements for bottled water coolers version 1.1.

~~((6))~~ (3)(a) The standby energy consumption of hot water dispensers and mini-tank electric water heaters manufactured on or after January 1, 2010, shall be not greater than 35 watts.

(b) This subsection does not apply to any water heater:

(i) That is within the scope of 42 U.S.C. Sec. 6292(a)(4) or 6311(1);

(ii) That has a rated storage volume of less than 20 gallons; and

(iii) For which there is no federal test method applicable to that type of water heater.

(c) Hot water dispensers shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.

(d) Mini-tank electric water heaters shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.

~~((7))~~ (4) The following standards are established for ~~((pool heaters,))~~ residential pool pumps~~((s))~~ and portable electric spas:

(a) ~~((Natural gas pool heaters shall not be equipped with constant burning pilots.~~

~~((b))~~ Residential pool pumps ~~((motors))~~ manufactured on or after January 1, 2010, and until July 18, 2021, must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of July 26, 2009. Beginning July 19, 2021, residential pool pumps must meet requirements specified in the dedicated-purpose pool pump rule published by the United

States department of energy on January 18, 2017, (82 Fed. Reg. 5650) and effective on May 18, 2017.

~~((e))~~ (b) Through December 31, 2019, portable electric spas manufactured on or after January 1, 2010, must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of July 26, 2009. Beginning January 1, 2020, portable electric spas must meet the requirements of the American national standard for portable electric spa energy efficiency (ANSI/APSP/ICC-14 2014).

~~((d))~~ (c) Through December 31, 2019, portable electric spas must be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009. Beginning January 1, 2020, portable electric spas must be tested in accordance with the method specified in the American national standard for portable electric spa energy efficiency (ANSI/APSP/ICC-14 2014).

~~((8))~~(a) The leakage rate of tub spout diverters shall be no greater than the applicable requirements shown in the following table:

Appliance	Testing Conditions	Maximum Leakage Rate
		Effective January 1, 2009
Tub spout diverters	When new	0.01 gpm
	After 15,000 cycles of diverting	0.05 gpm

~~(b) Showerhead tub spout diverter combinations shall meet both the federal standard for showerheads established pursuant to 42 U.S.C. Sec. 6291 et seq. and the standard for tub spout diverters specified in this section.~~

~~(9))~~ (5)(a) The idle energy rate of commercial hot food holding cabinets manufactured on or after January 1, 2010, shall be no greater than 40 watts per cubic foot of measured interior volume.

(b) The idle energy rate of commercial hot food holding cabinets shall be determined using ANSI/ASTM ((F2140-01)) F2140-11 standard test method for the performance of hot food holding cabinets (test for idle energy rate dry test). Commercial hot food holding cabinet interior volume shall be calculated using straight line segments following the gross interior dimensions of the appliance and using the following equation: Interior height x interior width x interior depth. Interior volume shall not account for racks, air plenums, or other interior parts.

(6) Commercial dishwashers included in the scope of the environmental protection agency energy star program product specification for commercial dishwashers, version 2.0, must meet the qualification criteria of that specification.

(7) Commercial fryers included in the scope of the environmental protection agency energy star program product specification for commercial fryers, version 2.0, must meet the qualification criteria for that specification.

(8) Commercial steam cookers must meet the requirements of the environmental protection agency energy star program product specification for commercial steam cookers, version 1.2.

(9) Computers and computer monitors must meet the requirements in the California Code of Regulations, Title 20, section 1605.3(v) as adopted on May 10, 2017, and amended on November 8, 2017, as measured in accordance with test methods prescribed in section 1604(v) of those regulations.

(10) Air compressors that meet the twelve criteria listed on page 350 to 351 of the "energy conservation standards for air compressors" final rule issued by the United States department of energy on December 5, 2016, must meet the requirements in table 1 on page 352 following the instructions on page 353 and as measured in accordance with the "uniform test method for certain air compressors" under 10 C.F.R. Part 431 (Appendix A to Subpart T) as in effect on July 3, 2017.

(11) High CRI fluorescent lamps must meet the requirements in 10 C.F.R. Sec. 430.32(n)(4) in effect as of January 3, 2017, as measured in accordance with the test methods prescribed in 10 C.F.R. Sec. 430.23 (appendix R to subpart B of part 430) in effect as of January 3, 2017.

(12) Portable air conditioners must have a combined energy efficiency ratio, as measured in accordance with the test methods prescribed in 10 C.F.R. Sec. 430.23 (appendix CC to subpart B of part 430) in effect as of January 3, 2017, that is greater than or equal to:

$$1.04 \times \frac{SACC}{(3.7117 \times SACC^{0.6384})}$$

where "SACC" is seasonally adjusted cooling capacity in Btu/h.

(13) Residential ventilating fans must meet the qualification criteria of the environmental protection agency energy star program product specification for residential ventilating fans, version 3.2.

(14) Spray sprinkler bodies that are not specifically excluded from the scope of the environmental protection agency water sense program product specification for spray sprinkler bodies, version 1.0, must include an integral pressure regulator and must meet the water efficiency and performance criteria and other requirements of that specification.

(15) The following products that are within the scope and definition of the applicable regulation must meet the requirements in the California Code of Regulations, Title 20, section 1605.3 in effect as of January 1, 2018, as measured in accordance with the test methods prescribed in the California Code of Regulations, Title 20, section 1604 in effect as of January 1, 2018:

(a) Showerheads;

(b) Tub spout diverters;

(c) Showerhead tub spout diverter combinations;

(d) Lavatory faucets and replacement aerators;

(e) Kitchen faucets and replacement aerators;

(f) Public lavatory faucets and replacement aerators;

(g) Urinals; and

(h) Water closets.

(16) Uninterruptible power supplies that utilize a NEMA 1-15P or 5-15P input plug and have an AC output must have an average load adjusted efficiency that meets or exceeds the values shown on page 193 of the prepublication final rule "Energy Conservation Program: Energy Conservation Standards for Uninterruptible Power Supplies" issued by the United States department of

energy on December 28, 2016, as measured in accordance with test procedures prescribed in Appendix Y to Subpart B of Part 430 of Title 10 of the Code of Federal Regulations "Uniform Test Method for Measuring the Energy Consumption of Battery Chargers" in effect as of January 11, 2017.

(17) Water coolers included in the scope of the environmental protection agency energy star program product specification for water coolers, version 2.0, must have an on mode with no water draw energy consumption less than or equal to the following values as measured in accordance with the test requirements of that program:

- (a) 0.16 kilowatt-hours per day for cold-only units and cook and cold units;
- (b) 0.87 kilowatt-hours per day for storage type hot and cold units; and
- (c) 0.18 kilowatt-hours per day for on demand hot and cold units.

(18) General service lamps must meet or exceed a lamp efficacy of 45 lumens per watt, when tested in accordance with the applicable federal test procedures for general service lamps prescribed in 10 C.F.R. Sec. 430.23 in effect as of January 3, 2017.

NEW SECTION, Sec. 5. A new section is added to chapter 19.260 RCW to read as follows:

(1) An electric storage water heater, if manufactured on or after January 1, 2021, may not be installed, sold, or offered for sale, lease, or rent in the state unless it complies with the following design requirement:

(a) The product must have a modular demand response communications port compliant with: (i) The March 2018 version of the ANSI/CTA-2045-A communication interface standard, or equivalent and (ii) the March 2018 version of the ANSI/CTA-2045-A application layer requirements.

(b) The interface standard and application layer requirements required in this subsection are the versions established in March 2018, unless the department adopts by rule a later version.

(2) The department may by rule establish a later effective date or suspend enforcement of the requirements of subsection (1) of this section if the department determines that such a delay or suspension is in the public interest.

(3) Private customer information, and proprietary customer information, collected, stored, conveyed, transmitted, or retrieved by an electric storage water heater equipped with a modular demand response communications port required under this section or rules adopted under this chapter is subject to the provisions of RCW 19.29A.100 and 19.29A.110.

(4) An electric utility supplying electricity to a building in which an electric storage water heater that meets the design requirements established in this section has been installed may not, without first having obtained in writing the customer's affirmative consent to participating in a program that allows such alteration, alter, or require the utility customer to alter, the usage of electricity or water relating to the electric storage water heater on the basis of information collected by the electric storage water heater or any associated device.

Sec. 6. RCW 19.260.050 and 2009 c 501 s 4 are each amended to read as follows:

(1) ~~((No new commercial refrigerator or freezer or state regulated incandescent reflector lamp manufactured on or after January 1, 2007, may be sold or offered for sale in the state unless the efficiency of the new product meets~~

or exceeds the efficiency standards set forth in RCW 19.260.040. No new automatic commercial ice cube machine manufactured on or after January 1, 2008, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

~~(2) On or after January 1, 2008, no new commercial refrigerator or freezer or state-regulated incandescent reflector lamp manufactured on or after January 1, 2007, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. On or after January 1, 2009, no new automatic commercial ice cube machine manufactured on or after January 1, 2008, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.~~

~~(3) Standards for state-regulated incandescent reflector lamps are effective on the dates specified in subsections (1) and (2) of this section.~~

~~(4)) The following products, if manufactured on or after January 1, 2010, may not be sold or offered in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:~~

~~(a) ((Wine chillers designed and sold for use by an individual;~~

~~(b)) Hot water dispensers and mini-tank electric water heaters;~~

~~((e)) (b) Bottle-type water dispensers and point-of-use water dispensers;~~

~~((d) Pool heaters;)) (c) Residential pool pumps(;) and portable electric spas;~~

~~((e)) (d) Tub spout diverters; and~~

~~((f)) (e) Commercial hot food holding cabinets.~~

~~((5)) (2) The following products, if manufactured on or after January 1, 2010, may not be installed for compensation in the state on or after January 1, 2011, unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:~~

~~(a) ((Wine chillers designed and sold for use by an individual;~~

~~(b)) Hot water dispensers and mini-tank electric water heaters;~~

~~((e)) (b) Bottle-type water dispensers and point-of-use water dispensers;~~

~~((d) Pool heaters;)) (c) Residential pool pumps(;) and portable electric spas;~~

~~((e)) (d) Tub spout diverters; and~~

~~((f)) (e) Commercial hot food holding cabinets.~~

(3) The following products, if manufactured on or after January 1, 2021, may not be sold or offered for sale, lease, or rent in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

(a) Commercial dishwashers;

(b) Commercial fryers;

(c) Commercial steam cookers;

(d) Computers or computer monitors;

(e) Faucets;

(f) Residential ventilating fans;

(g) Spray sprinkler bodies;

(h) Showerheads;

(i) Uninterruptible power supplies;

(j) Urinals and water closets; and

(k) Water coolers.

(4) Standards for the following products expire January 1, 2020:

(a) Hot water dispensers; and

(b) Bottle-type water dispensers and point-of-use water dispensers.

(5) A new air compressor manufactured on or after January 1, 2022, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(6) A new portable air conditioner manufactured on or after February 1, 2022, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(7) New general service lamps manufactured on or after January 1, 2020, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(8) No new high CRI fluorescent lamps may be sold or offered for sale in the state after January 1, 2023, unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. The department may establish by rule an earlier effective date, not before January 1, 2022, if the state of California adopts a comparable standard with an effective date before January 1, 2023.

Sec. 7. RCW 19.260.060 and 2005 c 298 s 6 are each amended to read as follows:

(1) The department may adopt rules that incorporate by reference federal efficiency standards for federally covered products only as the standards existed on January 1, 2018. The department, in consultation with the office of the attorney general, must regularly submit a report to the appropriate committees of the legislature on federal standards that preempt the state standards set forth in RCW 19.260.040. Any report on federal preemption must be transmitted at least thirty days before the start of any regular legislative session.

(2) The department may recommend updates to the energy efficiency standards and test methods for products listed in RCW 19.260.030. The department may also recommend establishing state standards for additional nonfederally covered products. In making its recommendations, the department shall use the following criteria: ~~((+))~~ (a) Multiple manufacturers produce products that meet the proposed standard at the time of recommendation~~((-2))~~; (b) products meeting the proposed standard are available at the time of recommendation~~((-3))~~; (c) the products are cost-effective to consumers on a life-cycle cost basis using average Washington resource rates~~((-4))~~; (d) the utility of the energy efficient product meets or exceeds the utility of the comparable product available for purchase~~((5))~~; and ~~((5))~~ (e) the standard exists in at least two other states in the United States. For recommendations concerning commercial clothes washers, the department must also consider the fiscal effects on the low-income, elderly, and student populations. Any recommendations shall be transmitted to the appropriate committees of the legislature sixty days before the start of any regular legislative session.

Sec. 8. RCW 19.260.070 and 2005 c 298 s 7 are each amended to read as follows:

(1) The manufacturers of products covered by this chapter must test samples of their products in accordance with the test procedures under this chapter or those specified in the state building code.

(2) Manufacturers of new products covered by RCW 19.260.030(~~(except for single voltage external AC to DC power supplies,)~~) shall certify to the department that the products are in compliance with this chapter. This certification must be based on test results unless this chapter does not specify a test method. The department shall establish rules governing the certification of these products and may (~~coordinate with~~) rely on the certification programs of other states and federal agencies with similar standards.

(3) Manufacturers of new products covered by RCW 19.260.030 shall identify each product offered for sale or installation in the state as in compliance with this chapter by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The department shall establish rules governing the identification of these products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards. Manufacturers of general service lamps that meet the efficiency standards under RCW 19.260.040 are not required to label each individual lamp offered for sale or installation in the state.

(4) The department may test products covered by RCW 19.260.030 and may rely on the results of product testing performed by or on behalf of other governmental jurisdictions with comparable standards. If products so tested are found not to be in compliance with the minimum efficiency standards established under RCW 19.260.040, the department shall: (a) Charge the manufacturer of the product for the cost of product purchase and testing; and (b) make information available to the public on products found not to be in compliance with the standards.

(5) The department shall obtain (~~in paper form~~) the test methods specified in RCW 19.260.040, which shall be available for public use at the department's energy policy offices.

(6) The department (~~shall~~) may investigate complaints received concerning violations of this chapter. Any manufacturer or distributor who violates this chapter shall be issued a warning by the director of the department for any first violation. Repeat violations are subject to a civil penalty of not more than two hundred fifty dollars a day. Penalties assessed under this subsection are in addition to costs assessed under subsection (4) of this section.

(7) The department may adopt rules as necessary to ensure the proper implementation and enforcement of this chapter.

(8) The proceedings relating to this chapter are governed by the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 9. RCW 19.27.170 (Water conservation performance standards—Testing and identifying fixtures that meet standards—Marking and labeling fixtures) and 1991 c 347 s 16 & 1989 c 348 s 8 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, 2019, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 11. 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 18, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 287

[Engrossed Second Substitute House Bill 2042]

GREEN TRANSPORTATION ADOPTION

AN ACT Relating to advancing green transportation adoption; amending RCW 28B.30.903, 47.04.350, 80.28.---, 80.28.360, 82.04.4496, 82.08.816, 82.12.816, 82.16.0496, 82.29A.125, and 82.44.200; amending 2019 c ... (SHB 1512) s 1 (uncodified); reenacting and amending RCW 43.84.092; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 47.04 RCW; adding a new section to chapter 47.66 RCW; adding a new section to chapter 46.17 RCW; creating new sections; providing effective dates; providing contingent effective dates; and providing expiration dates.

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

NEW SECTION. Sec. 1. The legislature finds that increasing the rate of adoption of electric vehicles and vessels and other clean alternative fuel vehicles will help to reduce harmful air pollution from exhaust emissions, including greenhouse gas emissions, in the state. The legislature also finds that an increased reliance on greener transit options will help to further reduce harmful air pollution from exhaust emissions. The legislature further finds that support for clean alternative fuel infrastructure can help to increase adoption of green transportation in the state, as noted in a 2015 joint transportation committee report. It is therefore the legislature's intent to drive green vehicle and vessel adoption and increased green transit use by: (1) Establishing and extending tax incentive programs for alternative fuel vehicles and related infrastructure, including for commercial vehicles; (2) providing funding for a capital grant program to assist transit authorities in reducing the carbon output of their fleets; (3) increasing public and private electric utilities' ability to invest in electric vehicle charging infrastructure; (4) establishing a technical assistance program for public agencies within the Washington State University's energy program; (5) funding a pilot program to test methods for facilitating access to alternative fuel vehicles and alternative fuel vehicle infrastructure by low-income residents of the state; (6) funding a study to examine opportunities to provide financing assistance to lower-income residents of the state who would like to purchase an electric vehicle; and (7) establishing a tax incentive program for certain electric vessels.

Sec. 2. RCW 28B.30.903 and 2010 c 37 s 1 are each amended to read as follows:

(1) The Washington State University extension energy program shall provide information, technical assistance, and consultation on physical plant operation, maintenance, and construction issues to state and local governments, tribal governments, and nonprofit organizations through its plant operations support program. The Washington State University extension energy program

may not enter into facilities design or construction contracts on behalf of state or local government agencies, tribal governments, or nonprofit organizations. The plant operations support program created in this section must be funded by voluntary subscription charges, service fees, and other funding acquired by or provided to Washington State University for such purposes.

(2) Subject to the availability of amounts appropriated for this specific purpose through the 2023-2025 biennium, the Washington State University extension energy program must establish and administer a technical assistance and education program focused on the use of alternative fuel vehicles. Education and assistance may be provided to public agencies, including local governments and other state political subdivisions.

Sec. 3. RCW 47.04.350 and 2015 3rd sp.s. c 44 s 403 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose through the 2023-2025 biennium, the department's public-private partnership office must develop and maintain a ((pilot)) program to support the deployment of ((electric)) clean alternative fuel vehicle charging and refueling infrastructure that is supported by private financing.

(2) The department must define corridors in which bidders may propose to install electric vehicle charging infrastructure or hydrogen fueling stations, and may update these corridors over time as needed. Alternatively, a bidder may propose a corridor in which the bidder proposes to install electric vehicle infrastructure or hydrogen fueling stations if the department has adopted rules allowing such a proposal and establishing guidelines for how such a proposal will be considered.

(3)(a) For bid proposals under this section, the department must require the following:

(i) Bidders must have private sector partners contributing to the project who stand to gain indirect value from development of the project, such as motor vehicle manufacturers, retail stores, or tourism stakeholders;

(ii) Bidders must demonstrate that the proposed project will be valuable to ~~((electric))~~ clean alternative fuel vehicle drivers and will address an existing gap in the state's ~~((electric vehicle charging station))~~ low carbon transportation infrastructure;

(iii) Projects must be expected to be profitable and sustainable for the owner-operator and the private partner; and

(iv) Bidders must specify how the project captures the indirect value of charging or refueling station deployment to the private partner.

(b) The department may adopt rules that require any other criteria for a successful project.

(4) In evaluating proposals under this section, the department may use the electric vehicle financial analysis tool that was developed in the joint transportation committee's study into financing electric vehicle charging station infrastructure.

(5)(a) After selecting a successful proposer under this section, the department may provide a loan or grant to the proposer.

(b) Grants and loans issued under this subsection must be funded from the electric vehicle ~~((charging infrastructure))~~ account created in RCW 82.44.200.

(c) Any project selected for support under this section is eligible for only one grant or loan as a part of the (~~pilot~~) program.

(6) The department may conduct preliminary workshops with potential bidders and other potential private sector partners to determine the best method of designing and maintaining the (~~pilot~~) program, discuss how to develop and maintain the partnerships among the private sector partners that may receive indirect value, and any other issues relating to the implementation and administration of this section. The department should consider regional workshops to engage potential business partners from across the state.

(7) The department must adopt rules to implement and administer this section.

Sec. 4. 2019 c ... (SHB 1512) s 1 (uncodified) is amended to read as follows:

The legislature finds that:

(1) Programs for the electrification of transportation have the potential to allow electric utilities to optimize the use of electric grid infrastructure, improve the management of electric loads, and better manage the integration of variable renewable energy resources. Depending upon each utility's unique circumstances, electrification of transportation programs may provide cost-effective energy efficiency, through more efficient use of energy resources, and more efficient use of the electric delivery system. Electrification of transportation may result in cost savings and benefits for all ratepayers.

(2) State policy can achieve the greatest return on investment in reducing greenhouse gas emissions and improving air quality by expediting the transition to alternative fuel vehicles, including electric vehicles. Potential benefits associated with electrification of transportation include the monetization of environmental attributes associated with carbon reduction in the transportation sector.

(3) Legislative clarity is important for utilities to offer programs and services, including incentives, in the electrification of transportation for their customers. It is the intent of the legislature to allow all utilities to support transportation electrification to further the state's policy goals and achieve parity among all electric utilities, so each electric utility, depending on its unique circumstances, can determine its appropriate role in the development of electrification of transportation infrastructure.

Sec. 5. RCW 80.28.--- and 2019 c ... (SHB 1512) s 4 are each amended to read as follows:

(1) An electric utility regulated by the utilities and transportation commission under this chapter may submit to the commission an electrification of transportation plan that deploys electric vehicle supply equipment or provides other electric transportation programs, services, or incentives to support electrification of transportation(~~(, provided that such electric vehicle supply equipment, programs, or services may not increase costs to customers in excess of one quarter of one percent above the benefits of electric transportation to all customers over a period consistent with the utility's planning horizon under its most recent integrated resource plan)).~~ The plans should align to a period consistent with either the utility's planning horizon under its most recent

integrated resource plan or the time frame of the actions contemplated in the plan, and may include:

(a) Any programs that the utility is proposing contemporaneously with the plan filing or anticipates later in the plan period;

(b) Anticipated benefits of transportation electrification, based on a forecast of electric transportation in the utilities' service territory; and

(c) Anticipated costs of programs, subject to the restrictions in RCW 80.28.360.

(2) In reviewing an electrification of transportation plan under subsection (1) of this section, the commission may consider the following: (a) The applicability of multiple options for electrification of transportation across all customer classes; (b) the impact of electrification on the utility's load, and whether demand response or other load management opportunities, including direct load control and dynamic pricing, are operationally appropriate; (c) system reliability and distribution system efficiencies; (d) interoperability concerns, including the interoperability of hardware and software systems in electrification of transportation proposals; and (e) the benefits and costs of the planned actions(~~(; and (f) the overall customer experience)~~).

(3) The commission must issue an acknowledgment of an electrification of transportation plan within six months of the submittal of the plan. The commission may establish by rule the requirements for preparation and submission of an electrification of transportation plan. An electric utility may submit a plan under this section before or during rule-making proceedings.

Sec. 6. RCW 80.28.360 and 2019 c ... (SHB 1512) s 5 are each amended to read as follows:

(1) In establishing rates for each electrical company regulated under this title, the commission may allow an incentive rate of return on investment through December 31, 2030, on capital expenditures for electric vehicle supply equipment that is deployed for the benefit of ratepayers, provided that the capital expenditures of the utilities' programs or plans in section 5(1) of this act do not increase ((costs to ratepayers)) the annual retail revenue requirement of the utility, after accounting for the benefits of transportation electrification in each year of the plan, in excess of one-quarter of one percent. The commission must consider and may adopt other policies to improve access to and promote fair competition in the provision of electric vehicle supply equipment.

(2) An incentive rate of return on investment under this section may be allowed only if the company chooses to pursue capital investment in electric vehicle supply equipment on a fully regulated basis similar to other capital investments behind a customer's meter. In the case of an incentive rate of return on investment allowed under this section, an increment of up to two percent must be added to the rate of return on common equity allowed on the company's other investments.

(3) The incentive rate of return on investment authorized in subsection (2) of this section applies only to projects which have been installed after July 1, 2015.

(4) The incentive rate of return on investment increment pursuant to this section may be earned only for a period up to the depreciable life of the electric vehicle supply equipment as defined in the depreciation schedules developed by the company and submitted to the commission for review. When the capital

investment has fully depreciated, an electrical company may gift the electric vehicle supply equipment to the owner of the property on which it is located.

(5) By December 31, 2017, the commission must report to the appropriate committees of the legislature with regard to the use of any incentives allowed under this section, the quantifiable impacts of the incentives on actual electric vehicle deployment, and any recommendations to the legislature about utility participation in the electric vehicle market.

NEW SECTION. Sec. 7. This section is the tax preference performance statement for the tax preferences contained in sections 8 through 14, chapter . . . , Laws of 2019 (sections 8 through 14 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It is the legislature's intent to establish and extend tax incentive programs for alternative fuel vehicles and related infrastructure by: (a) Reinstating the sales and use tax exemption on certain clean alternative fuel vehicles in order to reduce the price charged to customers for clean alternative fuel vehicles; (b) extending the business and occupation and public utility tax credit for clean alternative fuel commercial vehicles and expanding it to include clean alternative fuel infrastructure; (c) extending the sales and use tax exemption for electric vehicle batteries, fuel cells, and infrastructure and expanding it to include the electric battery and fuel cell components of electric buses and zero emissions buses; and (d) extending the leasehold excise tax exemption to tenants of public lands for battery and fuel cell electric vehicle infrastructure.

(3) To measure the effectiveness of the tax preferences in sections 8 through 14, chapter . . . , Laws of 2019 (sections 8 through 14 of this act) in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles titled in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing and the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary.

Sec. 8. RCW 82.04.4496 and 2017 c 116 s 1 are each amended to read as follows:

(1)(a)(i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost

amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	((50%)) 75% of incremental cost	\$25,000	\$2,000,000
14,001 to 26,500 pounds	((50%)) 75% of incremental cost	\$50,000	\$2,000,000
Above 26,500 pounds	((50%)) 75% of incremental cost	\$100,000	\$2,000,000

(ii) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to fifty percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of two million dollars.

(b) On September 1st of each year, any unused credits from any ~~((weight class))~~ category identified in ~~((the table in))~~ (a) of this subsection must be made available to applicants applying for credits under any other ~~((weight class listed))~~ category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section and RCW 82.16.0496 is subject to a maximum annual credit amount of six million dollars, and a maximum total credit amount of thirty-two and one-half million dollars since the credit became available on July 15, 2015.

(c) The credit provided in ~~(a)(i)~~ of this subsection ~~((+))~~ is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in ~~(a)(i)~~ of this subsection ~~((+))~~ multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per ~~((vehicle class))~~ category in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or ~~((thirty))~~ fifty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1)(a)(i) of this section may not exceed the lesser of two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.16 RCW.

(5) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.16.0496, during any calendar year to exceed six million dollars. The

department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section and RCW 82.16.0496 to exceed thirty-two and one-half million dollars. The department must provide notification on its web site monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

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

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

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

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;

(iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the infrastructure;

(vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;

(vii) The gross weight of each vehicle for vehicle credits;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

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

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;

(ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit; ~~(and)~~

(iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and

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

(c) Provide final documentation within ~~((fifteen))~~ thirty days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:

(i) A copy of the final invoice for the vehicle or infrastructure-related items;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of each vehicle;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) Attestations signed by both the seller and purchaser of each vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

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

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit ~~((is))~~ and total limit are reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; ~~((or))~~

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or

(iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle conversion is complete, or the construction or installation of the infrastructure is complete.

(13) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(14)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

(15) The department must conduct outreach to interested parties to obtain input on how best to streamline the application process required for the credit made available in this section and RCW 82.16.0496 to further adoption of alternative fuel technologies in commercial vehicle fleets, and must incorporate the findings resulting from this outreach effort into the rules and practices it adopts to implement and administer this section and RCW 82.16.0496 to the extent permitted under law.

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

(a) "Alternative fuel vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support a clean alternative fuel vehicle.

(b) "Auto transportation company" means any corporation or person owning, controlling, operating, or managing any motor propelled vehicle, used in the business of transporting persons for compensation over public highways within the state of Washington, between fixed points or over a regular route. For the purposes of this section, "auto transportation company" also includes the following categories of providers irrespective of whether they provide service between fixed points or over a regular route: "Private, nonprofit transportation provider" as defined in RCW 81.66.010, "charter party carrier" as defined in RCW 81.70.020, and paratransit service providers who primarily provide special needs transportation to individuals with disabilities and the elderly.

~~((b))~~ (c) "Clean alternative fuel" means electricity, dimethyl ether, hydrogen, methane, natural gas, liquefied natural gas, compressed natural gas, or propane.

~~((c))~~ (d) "Commercial vehicle" means any commercial vehicle that is purchased by a private business and that is used exclusively in the provision of commercial services or the transportation of commodities, merchandise, produce, refuse, freight, animals, or passengers, and that is displaying a Washington state license plate. All commercial vehicles that provide transportation to passengers must be operated by an auto transportation company.

~~((d))~~ (e) "Gross capitalized cost" means the agreed upon value of the commercial vehicle and including any other items a person pays over the lease term that are included in such cost.

~~((e))~~ (f) "Lease reduction factor" means the vehicle gross capitalized cost less the residual value, divided by the gross capitalized cost.

~~((f))~~ (g) "Qualifying used commercial vehicle" means vehicles that:

- (i) Have an odometer reading of less than four hundred fifty thousand miles;
- (ii) Are less than ten years past their original date of manufacture;
- (iii) Were modified after the initial purchase with a United States environmental protection agency certified conversion that would allow the propulsion units to be principally powered by a clean alternative fuel; and
- (iv) Are being sold for the first time after modification.

~~((g))~~ (h) "Residual value" means the lease-end value of the vehicle as determined by the lessor, at the end of the lease term included in the lease contract.

~~((16))~~ (17) Credits may be earned under this section from January 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached.

~~((17) Credits earned under this section may not be used after January 1, 2022.~~

~~(18) This section expires January 1, 2022.)~~

NEW SECTION. Sec. 9. A new section is added to chapter 82.08 RCW to read as follows:

(1) Beginning August 1, 2019, with sales made or lease agreements signed on or after the qualification period start date:

(a) The tax levied by RCW 82.08.020 does not apply as provided in (b) of this subsection to sales or leases of new or used passenger cars, light duty trucks, and medium duty passenger vehicles that:

- (i) Are exclusively powered by a clean alternative fuel; or
- (ii) Use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power; and
- (iii)(A) Have a vehicle selling price plus trade-in property of like kind for purchased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars; or

(B) Have a fair market value at the inception of the lease for leased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars;

(b)(i) The exemption in this section is applicable for up to the amounts specified in (b)(ii) or (iii) of this subsection of:

(A) The total amount of the vehicle's selling price, for sales made; or

(B) The total lease payments made plus any additional selling price of the leased vehicle if the original lessee purchases the leased vehicle before the qualification period end date, for lease agreements signed.

(ii) Based on the purchase date or the date the lease agreement was signed of the vehicle if the vehicle is a new vehicle at the time of the purchase date or the date the lease agreement was signed:

(A) From the qualification period start date until July 31, 2021, the maximum amount eligible under (b)(i) of this subsection is twenty-five thousand dollars;

(B) From August 1, 2021, until July 31, 2023, the maximum amount eligible under (b)(i) of this subsection is twenty thousand dollars;

(C) From August 1, 2023, until July 31, 2025, the maximum amount eligible under (b)(i) of this subsection is fifteen thousand dollars.

(iii) If the vehicle is a used vehicle at the time of the purchase date or the date the lease agreement was signed, the maximum amount eligible under (b)(i) of this subsection is sixteen thousand dollars.

(2) The seller must keep records necessary for the department to verify eligibility under this section. A person claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(3)(a) The department of licensing must maintain and publish a list of all vehicle models qualifying for the tax exemptions under this section or section 10 of this act until the expiration date of this section, and is authorized to issue final rulings on vehicle model qualification for these criteria. A seller is not responsible for repayment of the tax exemption under this section and section 10 of this act for a vehicle if the department of licensing's published list of qualifying vehicle models on the purchase date or the date the lease agreement was signed includes the vehicle model and the department of licensing subsequently removes the vehicle model from the published list, and, if applicable, the vehicle meets the qualifying criterion under subsection (1)(a)(iii)(B) of this section and section 10(1)(a)(iii)(B) of this act.

(b) The department of revenue retains responsibility for determining whether a vehicle meets the applicable qualifying criterion under subsection (1)(a)(iii)(B) of this section and section 10(1)(a)(iii)(B) of this act.

(4) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the electric vehicle account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on

the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(5) By the last day of October 2019, and every six months thereafter until this section expires, based on the best available data, the department must report the following information to the transportation committees of the legislature: The cumulative number of vehicles that qualified for the exemption under this section and section 10 of this act by month of purchase or lease start and vehicle make and model; the dollar amount of all state retail sales and use taxes exempted on or after the qualification period start date, under this section and section 10 of this act; and estimates of the future costs of leased vehicles that qualified for the exemption under this section and section 10 of this act.

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

(a) "Clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California Code of Regulations, effective January 1, 2019, and the rules of the Washington state department of ecology.

(b) "Fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(c) "New vehicle" has the same meaning as "new motor vehicle" in RCW 46.04.358.

(d) "Qualification period end date" means August 1, 2025.

(e) "Qualification period start date" means the effective date of this section.

(f) "Used vehicle" has the same meaning as in RCW 46.04.660.

(7)(a) Sales of vehicles delivered to the buyer or leased vehicles for which the lease agreement was signed after the qualification period end date do not qualify for the exemption under this section.

(b) All leased vehicles that qualified for the exemption under this section before the qualification period end date must continue to receive the exemption as described under subsection (1)(b) of this section on any lease payments due through the remainder of the lease before the expiration date of this section.

(8) This section expires August 1, 2028.

(9) This section is supported by the revenues generated in section 23 of this act, and therefore takes effect only if section 23 of this act is enacted by June 30, 2019.

NEW SECTION. Sec. 10. A new section is added to chapter 82.12 RCW to read as follows:

(1) Beginning August 1, 2019, beginning with sales made or lease agreements signed on or after the qualification period start date:

(a) The provisions of this chapter do not apply as provided in (b) of this subsection in respect to the use of new or used passenger cars, light duty trucks, and medium duty passenger vehicles that:

(i) Are exclusively powered by a clean alternative fuel; or

(ii) Use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power; and

(iii)(A) Have a fair market value at the time use tax is imposed for purchased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars; or

(B) Have a fair market value at the inception of the lease for leased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed forty-five thousand dollars; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed thirty thousand dollars;

(b)(i) The exemption in this section is only applicable for up to the amounts specified in (b)(ii) or (iii) of this subsection of:

(A) The total amount of the vehicle's purchase price, for sales made; or

(B) The total lease payments made plus any additional purchase price of the leased vehicle if the original lessee purchases the leased vehicle before the qualification period end date, for lease agreements signed.

(ii) Based on the purchase date or the date the lease agreement was signed of the vehicle if the vehicle is a new vehicle at the time of the purchase date or the date the lease agreement was signed:

(A) From the qualification period start date until July 31, 2021, the maximum amount eligible under (b)(i) of this subsection is twenty-five thousand dollars;

(B) From August 1, 2021, until July 31, 2023, the maximum amount eligible under (b)(i) of this subsection is twenty thousand dollars;

(C) From August 1, 2023, until July 31, 2025, the maximum amount eligible under (b)(i) of this subsection is fifteen thousand dollars.

(iii) If the vehicle is a used vehicle at the time of the purchase date or the date the lease agreement was signed, the maximum amount eligible under (b)(i) of this subsection is sixteen thousand dollars.

(2)(a) The seller must keep records necessary for the department to verify eligibility under this section, except as provided in (b) of this subsection. A person claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; fair market value of the vehicle; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(b) (a) of this subsection applies only if the seller or person claiming the exemption is a vehicle dealer, as defined under RCW 46.70.011. When the seller is not a vehicle dealer, the department of licensing must establish a process for granting the tax exemption under this section for use tax otherwise collected at the time the ownership of a vehicle is transferred when the vehicle qualifies for the use tax exemption under subsection (1)(a) of this section, and must provide

any information required under (a) of this subsection that it obtains as part of the vehicle titling and registration process for these vehicles to the department on at least a quarterly basis.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the electric vehicle account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data.

(4)(a) Vehicles purchased or leased vehicles for which the lease agreement was signed after the qualification period end date do not qualify for the exemption under this section.

(b) All leased vehicles that qualified for the exemption under this section before the qualification period end date must continue to receive the exemption as described under subsection (1)(b) of this section on any lease payments due through the remainder of the lease before August 1, 2028.

(5) The definitions in section 9 of this act apply to this section.

(6) This section is supported by the revenues generated in section 23 of this act, and therefore takes effect only if section 23 of this act is enacted by June 30, 2019.

(7) This section expires August 1, 2028.

Sec. 11. RCW 82.08.816 and 2009 c 459 s 4 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of batteries or fuel cells for electric vehicles, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

(b) The sale of or charge made for labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells;

(c) The sale of or charge made for labor and services rendered in respect to installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure, including hydrogen fueling stations; (~~and~~)

(d) The sale of tangible personal property that will become a component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and

(e) The sale of zero emissions buses.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption (~~(certification)~~) certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide

estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support ~~((and))~~ a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, ~~((and))~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

~~((4))~~ (e) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for the energy input into the production process.

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(g) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

(5) This section expires ~~((January 1, 2020))~~ July 1, 2025.

Sec. 12. RCW 82.12.816 and 2009 c 459 s 5 are each amended to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) Electric vehicle batteries or fuel cells, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

(b) Labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells; ~~((and))~~

(c) Tangible personal property that will become a component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and

(d) Zero emissions buses.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support ~~((am))~~ a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, ~~((and))~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

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

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(g) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) This section expires ~~((January 1, 2020))~~ July 1, 2025.

Sec. 13. RCW 82.16.0496 and 2017 c 116 s 2 are each amended to read as follows:

(1)(a)(i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	((50%)) 75% of incremental cost	\$25,000	\$2,000,000
14,001 to 26,500 pounds	((50%)) 75% of incremental cost	\$50,000	\$2,000,000
Above 26,500 pounds	((50%)) 75% of incremental cost	\$100,000	\$2,000,000

(i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to fifty percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of two million dollars.

(b) On September 1st of each year, any unused credits from any (~~(weight class))~~ category identified in (~~(the table in))~~ (a) of this subsection must be made available to applicants applying for credits under any other (~~(weight class listed))~~ category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section and RCW 82.04.4496 is subject to a maximum annual credit amount of six million dollars, and a maximum total credit amount of thirty-two and one-half million dollars beginning July 15, 2015.

(c) The credit provided in (a)(i) of this subsection (~~((+))~~) is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in (a)(i) of this subsection (~~((+))~~) multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per (~~(vehicle class))~~ category in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or (~~((thirty))~~) fifty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1)(a)(i) of this section may not exceed the lesser of two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

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

(5) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.04.4496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining

before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section and RCW 82.04.4496 to exceed thirty-two and one-half million dollars. The department must provide notification on its web site monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

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

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

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

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;

(iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the infrastructure;

(vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;

(vii) The gross weight of each vehicle for vehicle credits;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

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

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;

(ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit; ~~(and)~~

(iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and

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

(c) Provide final documentation within ~~((fifteen))~~ thirty days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:

- (i) A copy of the final invoice for the vehicle or infrastructure-related items;
- (ii) A copy of the factory build sheet or equivalent documentation;
- (iii) The vehicle identification number of each vehicle;
- (iv) The incremental cost of the alternative fuel system for vehicle credits;
- (v) Attestations signed by both the seller and purchaser of the vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and
- (vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit ~~((is))~~ and total limit are reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; ~~((or))~~

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or

(iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle

conversion is complete, or the construction or installation of the infrastructure is complete.

(13) The definitions in RCW 82.04.4496 apply to this section.

(14) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(15)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

(16) Credits may be earned under this section from January 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, ~~((through January 1, 2021))~~ until the maximum total credit amount in subsection (1)(b) of this section is reached.

~~((17) Credits earned under this section may not be used after January 1, 2022.~~

~~(18) This section expires January 1, 2022.)~~

Sec. 14. RCW 82.29A.125 and 2009 c 459 s 3 are each amended to read as follows:

(1) Leasehold excise tax may not be imposed on leases to tenants of public lands for purposes of installing, maintaining, and operating electric vehicle infrastructure.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, ~~((and))~~ battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, and renewable hydrogen production facilities.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power

levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

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

(f) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(3) This section expires (~~January 1, 2020~~) July 1, 2025.

Sec. 15. RCW 82.44.200 and 2015 3rd sp.s. c 44 s 404 are each amended to read as follows:

The electric vehicle (~~(charging infrastructure)~~) account is created in the transportation infrastructure account. Proceeds from the principal and interest payments made on loans from the account must be deposited into the account. Expenditures from the account may be used only for the purposes specified in RCW 47.04.350, sections 9 and 10 of this act, and the support of other transportation electrification and alternative fuel related purposes. Moneys in the account may be spent only after appropriation.

NEW SECTION, Sec. 16. A new section is added to chapter 47.04 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose through the 2023-2025 biennium, the department's public-private partnership office must develop a pilot program to support clean alternative fuel car sharing programs to provide clean alternative fuel vehicle use opportunities to underserved communities and low to moderate income members of the workforce not readily served by transit or located in transportation corridors with emissions that exceed federal or state emissions standards. Nonprofit organizations or local governments, including housing authorities, with a demonstrated history of managing or implementing low-income transportation clean alternative fuel and shared mobility pilot programs are eligible to participate in this program.

(2) The department must determine specific eligibility criteria, based on the requirements of this section, the report submitted to the legislature by the Puget Sound clean air agency entitled facilitating low-income utilization of electric vehicles, and other factors relevant to increasing clean alternative fuel vehicle use in underserved and low to moderate income communities. The department may adopt rules specifying the eligibility criteria it selects.

(3) The department may conduct preliminary workshops with potential bidders and other potential partners to determine the best method of designing the pilot program.

(4) The department must include the following elements in its proposal evaluation and scoring methodology: History of successful management of equity focused clean alternative fuel vehicle projects; substantial level of involvement from community-based, equity focused organizations in the project; plan for long-term financial sustainability of the work beyond the

duration of the grant period; matching resources leveraged for the project; and geographical diversity of the projects selected.

(5) After selecting successful proposals under this section, the department may provide grant funding to them. The total grant amount available per project may range from fifty thousand to two hundred thousand dollars. The grant opportunity must include possible funding of vehicles, charging or refueling station infrastructure, staff time, and any other expenses required to implement the project. No more than ten percent of grant funds may be used for administrative expenses.

(6)(a) Any property acquired with state grant funding under this section by nongovernmental participants must be used solely for program purposes and, if sold, the proceeds of the sale must be used solely for program purposes.

(b) At the termination of a program for providing alternative fuel car sharing services, the state must be reimbursed for any property acquired with state grant funding under this section that nongovernmental participants in the program retain at the time of program termination. The amount of reimbursement may under no circumstances be less than the fair market value of the property at the time of the termination of the program.

NEW SECTION. Sec. 17. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce must conduct a study to identify opportunities to reduce barriers to battery and fuel cell electric vehicle adoption by lower income residents of the state through the use of vehicle and infrastructure financing assistance. The study must include an assessment of opportunities to work with nonprofit lenders to facilitate vehicle purchases through the use of loan-loss reserves and rate buy downs by qualified borrowers purchasing battery and fuel cell electric vehicles that are eligible for the tax exemptions under sections 9 and 10 of this act, and may address additional financing assistance opportunities identified. The study must focus on potential borrowers who are at or below eighty percent of the state median household income. The study may also address any additional opportunities identified to increase electric vehicle adoption by lower income residents of the state.

(2) The department of commerce must provide a report detailing the findings of this study to the transportation committees of the legislature by June 30, 2020, and may contract with a consultant on all or a portion of the study.

NEW SECTION. Sec. 18. A new section is added to chapter 47.66 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose through the 2023-2025 biennium, the department's public transportation division shall establish a green transportation capital grant program. The purpose of the grant program is to aid any transit authority in funding cost-effective capital projects to reduce the carbon intensity of the Washington transportation system, examples of which include: Electrification of vehicle fleets, including battery and fuel cell electric vehicles; modification or replacement of capital facilities in order to facilitate fleet electrification and/or hydrogen refueling; necessary upgrades to electrical transmission and distribution systems; and construction of charging and fueling stations. The department's public transportation division shall identify projects and shall submit a prioritized list of

all projects requesting funding to the legislature by December 1st of each even-numbered year.

(b) The department's public transportation division shall select projects based on a competitive process that considers the following criteria:

(i) The cost-effectiveness of the reductions in carbon emissions provided by the project; and

(ii) The benefit provided to transitioning the entire state to a transportation system with lower carbon intensity.

(2) The department's public transportation division must establish an advisory committee to assist in identifying projects under subsection (1) of this section. The advisory committee must include representatives from the department of ecology, the department of commerce, the utilities and transportation commission, and at least one transit authority.

(3) In order to receive green transportation capital grant program funding for a project, a transit authority must provide matching funding for that project that is at least equal to twenty percent of the total cost of the project.

(4) The department's public transportation division must report annually to the transportation committees of the legislature on the status of any grant projects funded by the program created under this section.

(5) For purposes of this section, "transit authority" means a city transit system under RCW 35.58.2721 or chapter 35.95A RCW, a county public transportation authority under chapter 36.57 RCW, a metropolitan municipal corporation transit system under chapter 36.56 RCW, a public transportation benefit area under chapter 36.57A RCW, an unincorporated transportation benefit area under RCW 36.57.100, a regional transit authority under chapter 81.112 RCW, or any special purpose district formed to operate a public transportation system.

Sec. 19. RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

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

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The

treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle ((charging infrastructure)) account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the

natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent

fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

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

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

NEW SECTION. Sec. 20. This section is the tax preference performance statement for the tax preferences contained in sections 21 and 22, chapter . . . , Laws of 2019 (sections 21 and 22 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of electric vessels in Washington. It is the legislature's intent to establish a sales and use tax exemption on certain electric vessels in order to reduce the price charged to customers for electric vessels.

(3) To measure the effectiveness of the tax preferences in sections 21 and 22, chapter . . . , Laws of 2019 (sections 21 and 22 of this act) in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of electric vessels titled in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing and the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary.

NEW SECTION. Sec. 21. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of new battery-powered electric marine propulsion systems with continuous power greater than fifteen kilowatts.

(b) The sale of new vessels equipped with propulsion systems that qualify under (a) of this subsection.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum

equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) For the purposes of this section:

(a) "Battery-powered electric marine propulsion system" means a fully electric outboard or inboard motor used by vessels, the sole source of propulsive power of which is the energy stored in the battery packs. The term includes required accessories, such as throttles, displays, and battery packs; and

(b) "Vessel" includes every watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(5) This section expires July 1, 2025.

NEW SECTION. Sec. 22. A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) New battery-powered electric marine propulsion systems with continuous power greater than fifteen kilowatts; and

(b) New vessels equipped with propulsion systems that qualify under (a) of this subsection.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns.

(4) For the purposes of this section, "battery-powered electric marine propulsion system" and "vessel" have the same meanings as provided in section 22 of this act.

(5) This section expires July 1, 2025.

NEW SECTION. Sec. 23. A new section is added to chapter 46.17 RCW to read as follows:

To realize the environmental benefits of electrification of the transportation system it is necessary to support the adoption of electric vehicles and other electric technology in the state by incentivizing the purchase of these vehicles, building out the charging infrastructure, developing greener transit options, and supporting clean alternative fuel infrastructure. Therefore, it is the intent of the legislature to support these activities through the imposition of new transportation electrification fees in this section.

(1) A vehicle that both (a) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (b) is capable of traveling at least thirty miles using only battery power, is subject to an annual seventy-five dollar transportation electrification fee to be collected by the department, county auditor, or other agent or subagent appointed by the director, in addition to any other fees and taxes required by law. For administrative efficiencies, the transportation electrification fee must be collected at the same time as vehicle registration renewals and may only be collected for vehicles that are renewing an annual vehicle registration.

(2) Beginning October 1, 2019, in lieu of the fee in subsection (1) of this section for a hybrid or alternative fuel vehicle that is not required to pay the fees established in RCW 46.17.323 (1) and (4), the department, county auditor, or other agent or subagent appointed by the director must require that the applicant for the annual vehicle registration renewal of such hybrid or alternative fuel vehicle pay a seventy-five dollar hybrid vehicle transportation electrification fee, in addition to any other fees and taxes required by law.

(3) The fees required under this section must be deposited in the electric vehicle account created in RCW 82.44.200, until July 1, 2025, when the fee must be deposited in the motor vehicle account.

(4) This section only applies to a vehicle that is designed to have the capability to drive at a speed of more than thirty-five miles per hour.

NEW SECTION. Sec. 24. Sections 1 through 7, 12, and 14 through 23 of this act take effect August 1, 2019.

NEW SECTION. Sec. 25. Sections 8 and 13 of this act take effect January 1, 2020.

Passed by the House April 28, 2019.

Passed by the Senate April 28, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 288

[Engrossed Second Substitute Senate Bill 5116]

CLEAN ENERGY--ELECTRIC UTILITIES--VARIOUS PROVISIONS

AN ACT Relating to supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future; amending RCW 19.280.030, 80.84.010, 82.08.962, 82.12.962, 80.04.250, 43.21F.090, 19.285.030, and 19.285.040; adding new sections to chapter 80.28 RCW; adding a new chapter to Title 19 RCW; creating new sections; prescribing penalties; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that Washington must address the impacts of climate change by leading the transition to a clean energy economy. One way in which Washington must lead this transition is by transforming its energy supply, modernizing its electricity system, and ensuring that the benefits of this transition are broadly shared throughout the state.

(2) With our wealth of carbon-free hydropower, Washington has some of the cleanest electricity in the United States. But electricity remains a large source of emissions in our state. We are at a critical juncture for transforming our

electricity system. It is the policy of the state to eliminate coal-fired electricity, transition the state's electricity supply to one hundred percent carbon-neutral by 2030, and one hundred percent carbon-free by 2045. In implementing this chapter, the state must prioritize the maximization of family wage job creation, seek to ensure that all customers are benefiting from the transition to a clean energy economy, and provide safeguards to ensure that the achievement of this policy does not impair the reliability of the electricity system or impose unreasonable costs on utility customers.

(3) The transition to one hundred percent clean energy is underway, but must happen faster than our current policies can deliver. Absent significant and swift reductions in greenhouse gas emissions, climate change poses immediate significant threats to our economy, health, safety, and national security. The prices of clean energy technologies continue to fall, and are, in many cases, competitive or even cheaper than conventional energy sources.

(4) The legislature finds that Washington can accomplish the goals of this act while: Promoting energy independence; creating high-quality jobs in the clean energy sector; maximizing the value of hydropower, our principal renewable resource; continuing to encourage and provide incentives for clean alternative energy sources, including providing electricity for the transportation sector; maintaining safe and reliable electricity to all customers at stable and affordable rates; and protecting clean air and water in the Pacific Northwest. Clean energy creates more jobs per unit of energy produced than fossil fuel sources, so this transition will contribute to job growth in Washington while addressing our climate crisis head on. Our abundance of renewable energy and our strong clean technology sector make Washington well positioned to be at the forefront of the transition to one hundred percent clean electricity.

(5) The legislature declares that utilities in the state have an important role to play in this transition, and must be fully empowered, through regulatory tools and incentives, to achieve the goals of this policy. In combination with new technology and emerging opportunities for customers, this policy will spur transformational change in the utility industry. Given these changes, the legislature recognizes and finds that the utilities and transportation commission's statutory grant of authority for rate making includes consideration and implementation of performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms where appropriate to achieve fair, just, reasonable, and sufficient rates and its public interest objectives.

(6) The legislature recognizes and finds that the public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency. It is the intent of the legislature that in achieving this policy for Washington, there should not be an increase in environmental health impacts to highly impacted communities.

(7) It is the intent of the legislature to provide flexible tools to address the variability of hydropower for compliance under this act.

NEW SECTION. Sec. 2. 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 section 9(2) of this act.

(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 70.235.010.

(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 the effective date of this section;

(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 70.235.010.

(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 section 24 of this act 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 utility who becomes a market customer after the effective date of this section.

(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 the effective date of this section 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 the effective date of this section.

(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 the effective date of this section, 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.

NEW SECTION. Sec. 3. (1)(a) On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities.

(b) The commission shall allow in electric rates all decommissioning and remediation costs prudently incurred by an investor-owned utility for a coal-fired resource.

(2) The commission must accelerate depreciation schedules for any coal-fired resource to a date no later than December 31, 2025. The commission may accelerate the depreciation schedule for any qualified transmission line owned by an investor-owned utility when the commission finds the qualified transmission line is no longer used and useful and there is no reasonable

likelihood that the qualified transmission line will be utilized in the future. The adjusted depreciation schedule must require such a qualified transmission line to be fully depreciated on or before December 31, 2025.

(3) The commission must allow in rates, directly or indirectly, amounts on an investor-owned utility's books of account that the commission finds represent prudently incurred undepreciated investment in a fossil fuel generating resource that has been retired from service when:

(a) The retirement is due to ordinary wear and tear, casualties, acts of God, acts of governmental authority, inability to procure or use fuel, termination or expiration of any ownership, or a operation agreement affecting such a fossil fuel generating resource; or

(b) The commission finds that the retirement is in the public interest.

(4) An electric utility that fails to comply with the requirements of subsection (1) of this section must pay the administrative penalty established under section 9(1) of this act, except as otherwise provided in this chapter.

NEW SECTION. Sec. 4. (1) It is the policy of the state that all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030.

(a) For the four-year compliance period beginning January 1, 2030, and for each multiyear compliance period thereafter through December 31, 2044, an electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources, or alternative compliance options, as provided in this section. To achieve compliance with this standard, an electric utility must: (i) Pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail electric load, using the methodology established in RCW 19.285.040, if applicable; and (ii) use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period. An electric utility must achieve compliance with this standard for the following compliance periods: January 1, 2030, through December 31, 2033; January 1, 2034, through December 31, 2037; January 1, 2038, through December 31, 2041; and January 1, 2042, through December 31, 2044.

(b) Through December 31, 2044, an electric utility may satisfy up to twenty percent of its compliance obligation under (a) of this subsection with an alternative compliance option consistent with this section. An alternative compliance option may include any combination of the following:

(i) Making an alternative compliance payment under section 9(2) of this act;

(ii) Using unbundled renewable energy credits, provided that there is no double counting of any nonpower attributes associated with renewable energy credits within Washington or programs in other jurisdictions, as follows:

(A) Unbundled renewable energy credits produced from eligible renewable resources, as defined under RCW 19.285.030, which may be used by the electric utility for compliance with RCW 19.285.040 and this section as provided under RCW 19.285.040(2)(e); and

(B) Unbundled renewable energy credits, other than those included in (b)(ii)(A) of this subsection, that represent electricity generated within the compliance period;

(iii) Investing in energy transformation projects, including additional conservation and efficiency resources beyond what is otherwise required under this section, provided the projects meet the requirements of subsection (2) of this section and are not credited as resources used to meet the standard under (a) of this subsection; or

(iv) Using electricity from an energy recovery facility using municipal solid waste as the principal fuel source, where the facility was constructed prior to 1992, and the facility is operated in compliance with federal laws and regulations and meets state air quality standards. An electric utility may only use electricity from such an energy recovery facility if the department and the department of ecology determine that electricity generation at the facility provides a net reduction in greenhouse gas emissions compared to any other available waste management best practice. The determination must be based on a life-cycle analysis comparing the energy recovery facility to other technologies available in the jurisdiction in which the facility is located for the waste management best practices of waste reduction, recycling, composting, and minimizing the use of a landfill.

(c) Electricity from renewable resources used to meet the standard under (a) of this subsection must be verified by the retirement of renewable energy credits. Renewable energy credits must be tracked and retired in the tracking system selected by the department.

(d) Hydroelectric generation used by an electric utility in meeting the standard under (a) of this subsection may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(e) Nothing in (d) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville power administration, from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or from installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways, as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(f) Nonemitting electric generation used to meet the standard under (a) of this subsection must be generated during the compliance period and must be verified by documentation that the electric utility owns the nonpower attributes of the electricity generated by the nonemitting electric generation resource.

(g) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(2) Investments in energy transformation projects used to satisfy an alternative compliance option provided under subsection (1)(b) of this section must use criteria developed by the department of ecology, in consultation with the department and the commission. For the purpose of crediting an energy transformation project toward the standard in subsection (1)(a) of this section,

the department of ecology must establish a conversion factor of emissions reductions resulting from energy transformation projects to megawatt-hours of electricity from nonemitting electric generation that is consistent with the emission factors for unspecified electricity, or for energy transformation projects in the transportation sector, consistent with default emissions or conversion factors established by other jurisdictions for clean alternative fuels. Emissions reductions from energy transformation projects must be:

- (a) Real, specific, identifiable, and quantifiable;
- (b) Permanent: The department of ecology must look to other jurisdictions in setting this standard and make a reasonable determination on length of time;
- (c) Enforceable by the state of Washington;
- (d) Verifiable;
- (e) Not required by another statute, rule, or other legal requirement; and
- (f) Not reasonably assumed to occur absent investment, or if an investment has already been made, not reasonably assumed to occur absent additional funding in the near future.

(3) Energy transformation projects must be associated with the consumption of energy in Washington and must not create a new use of fossil fuels that results in a net increase of fossil fuel usage.

(4) The compliance eligibility of energy transformation projects may be scaled or prorated by an approved protocol in order to distinguish effects related to reductions in electricity usage from reductions in fossil fuel usage.

(5) Any compliance obligation fulfilled through an investment in an energy transformation project is eligible for use only: (a) By the electric utility that makes the investment; (b) if the investment is made by the Bonneville power administration, by electric utilities that are preference customers of the Bonneville power administration; or (c) if the investment is made by a joint operating agency organized under chapter 43.52 RCW, by a member of the joint operating agency. An electric utility making an investment in partnership with another electric utility or entity may claim credit proportional to its share invested in the total project cost.

(6)(a) In meeting the standard under subsection (1) of this section, an electric utility must, consistent with the requirements of RCW 19.285.040, if applicable, pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

- (i) Achieve targets at the lowest reasonable cost, considering risk;
- (ii) Consider acquisition of existing renewable resources; and
- (iii) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and energy storage, insofar as doing so is consistent with (a)(i) of this subsection.

(b) Electric utilities subject to RCW 19.285.040 must demonstrate pursuit of all conservation and efficiency resources through compliance with the requirements in RCW 19.285.040.

(7) An electric utility that fails to meet the requirements of this section must pay the administrative penalty established under section 9(1) of this act, except as otherwise provided in this chapter.

(8) In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and section 24 of this act, ensure that all

customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency.

(9) Affected market customers must comply with the standard established under subsection (1) of this section.

(10) A market customer that purchases electricity exclusively from carbon-free resources 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, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to the standard established in this section. For purposes of interpreting any such special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

(11) To reduce costs for utility customers or avoid exceeding the cost impact limit in section 6(3)(a) of this act, a multistate electric utility with fewer than two hundred fifty thousand customers in Washington may apply the total amount of megawatt-hours of coal-fired resources eliminated from the utility's allocation of electricity before December 31, 2025, as an equivalent amount of megawatt-hours of nonemitting electric generation or electricity from renewable resources required to comply with subsection (1)(a) of this section. The utility must demonstrate that for every megawatt-hour of early action compliance credit there is a real, permanent reduction in greenhouse gas emissions in the western interconnection directly associated with that credit. A multistate electric utility must request to use early action compliance credit in its clean energy implementation plan that is submitted under section 6 of this act. The multistate electric utility must specify in its clean energy implementation plan the compliance years to which the early action compliance credit will apply, but in no event may the multistate electric utility use the early action compliance credits beyond 2035. The commission must establish conditions for use of early action compliance credits, including a determination of whether action constitutes early action, before the multistate electric utility's use of early action compliance credits in a clean energy implementation plan.

NEW SECTION. Sec. 5. (1) It is the policy of the state that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045. By January 1, 2045, and each year thereafter, each electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources.

(2) Each electric utility must incorporate subsection (1) of this section into all relevant planning and resource acquisition practices including, but not limited to: Resource planning under chapter 19.280 RCW; the construction or acquisition of property, including electric generating facilities; and the provision of electricity service to retail electric customers.

(3) In planning to meet projected demand consistent with the requirements of subsection (2) of this section and RCW 19.285.040, if applicable, an electric utility must pursue all cost-effective, reliable, and feasible conservation and

efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

(a) Achieve targets at the lowest reasonable cost, considering risk;

(b) Consider acquisition of existing renewable resources; and

(c) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and energy storage, insofar as doing so is consistent with (a) of this subsection.

(4) The commission, department, energy facility site evaluation council, department of ecology, and all other state agencies must incorporate this section into all relevant planning and utilize all programs authorized by statute to achieve subsection (1) of this section.

(5)(a) Hydroelectric generation used by an electric utility to satisfy the requirements of this section may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(b) Nothing in (a) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville power administration, from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or from installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(6) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(7) Affected market customers must comply with the obligations of this section.

(8) Any market customer that purchases electricity exclusively from carbon-free resources 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, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to the standards established in this section. For the purposes of interpreting such a special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

NEW SECTION. Sec. 6. (1)(a) By January 1, 2022, and every four years thereafter, each investor-owned utility must develop and submit to the commission:

(i) A four-year clean energy implementation plan for the standards established under sections 4(1) and 5(1) of this act that proposes specific targets for energy efficiency, demand response, and renewable energy; and

(ii) Proposed interim targets for meeting the standard under section 4(1) of this act during the years prior to 2030 and between 2030 and 2045.

(b) An investor-owned utility's clean energy implementation plan must:

(i) Be informed by the investor-owned utility's clean energy action plan developed under RCW 19.280.030;

(ii) Be consistent with subsection (3) of this section; and

(iii) Identify specific actions to be taken by the investor-owned utility over the next four years, consistent with the utility's long-range integrated resource plan and resource adequacy requirements, that demonstrate progress toward meeting the standards under sections 4(1) and 5(1) of this act and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the investor-owned utility's historic performance under median water conditions and resource capability and by the investor-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the investor-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(c) The commission, after a hearing, must by order approve, reject, or approve with conditions an investor-owned utility's clean energy implementation plan and interim targets. The commission may, in its order, recommend or require more stringent targets than those proposed by the investor-owned utility. The commission may periodically adjust or expedite timelines if it can be demonstrated that the targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and the reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.

(2)(a) By January 1, 2022, and every four years thereafter, each consumer-owned utility must develop and submit to the department a four-year clean energy implementation plan for the standards established under sections 4(1) and 5(1) of this act that:

(i) Proposes interim targets for meeting the standard under section 4(1) of this act during the years prior to 2030 and between 2030 and 2045, as well as specific targets for energy efficiency, demand response, and renewable energy;

(ii) Is informed by the consumer-owned utility's clean energy action plan developed under RCW 19.280.030(1) or other ten-year plan developed under RCW 19.280.030(5);

(iii) Is consistent with subsection (4) of this section; and

(iv) Identifies specific actions to be taken by the consumer-owned utility over the next four years, consistent with the utility's long-range resource plan and resource adequacy requirements, that demonstrate progress towards meeting the standards under sections 4(1) and 5(1) of this act and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be

informed by the consumer-owned utility's historic performance under median water conditions and resource capability and by the consumer-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the consumer-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(b) The governing body of the consumer-owned utility must, after a public meeting, adopt the consumer-owned utility's clean energy implementation plan. The clean energy implementation plan must be submitted to the department and made available to the public. The governing body may adopt more stringent targets than those proposed by the consumer-owned utility and periodically adjust or expedite timelines if it can be demonstrated that such targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.

(3)(a) An investor-owned utility must be considered to be in compliance with the standards under sections 4(1) and 5(1) of this act if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (1) of this section equals a two percent increase of the investor-owned utility's weather-adjusted sales revenue to customers for electric operations above the previous year, as reported by the investor-owned utility in its most recent commission basis report. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of sections 4 and 5 of this act.

(b) If an investor-owned utility relies on (a) of this subsection as a basis for compliance with the standard under section 4(1) of this act, then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(4)(a) A consumer-owned utility must be considered to be in compliance with the standards under sections 4(1) and 5(1) of this act if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (2) of this section meets or exceeds a two percent increase of the consumer-owned utility's retail revenue requirement above the previous year. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of sections 4 and 5 of this act.

(b) If a consumer-owned utility relies on (a) of this subsection as a basis for compliance with the standard under section 4(1) of this act, and it has not met

eighty percent of its annual retail electric load using electricity from renewable resources and nonemitting electric generation, then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(5) The commission, for investor-owned utilities, and the department, for consumer-owned utilities, must adopt rules establishing the methodology for calculating the incremental cost of compliance under this section, as compared to the cost of an alternative lowest reasonable cost portfolio of investments that are reasonably available.

NEW SECTION. Sec. 7. (1) Each electric utility must provide to the department, in the case of a consumer-owned utility, or to the commission, in the case of an investor-owned utility, its greenhouse gas content calculation in conformance with this section. A utility's greenhouse gas content calculation must be based on the fuel sources that it reports and discloses in compliance with chapter 19.29A RCW. An investor-owned utility must also report the information required in this subsection to the department.

(2) For unspecified electricity, the utility must use an emissions rate determined, and periodically updated, by the department of ecology by rule. The department of ecology must adopt an emissions rate for unspecified electricity consistent with the emissions rate established for other markets in the western interconnection. If the department of ecology has not adopted an emissions rate for unspecified electricity, the emissions rate that applies for the purposes of this chapter is 0.437 metric tons of carbon dioxide per megawatt-hour of electricity.

(3) For the purposes of this act, the fuel mix calculated for the Bonneville power administration may exclude any purchases of electric generation that are not associated with load in the state of Washington.

NEW SECTION. Sec. 8. By January 1, 2024, and at least every four years thereafter and in compliance with RCW 43.01.036, the department must submit a report to the legislature. The report must include the following:

(1) A review of the standards described in sections 3 through 5 of this act focused on technologies, forecasts, and existing transmission, and an evaluation of safety, environmental and public safety protection, affordability, and system reliability.

(2)(a) An evaluation, produced in consultation with the commission, electric utilities, transmission operators in Washington, the reliability coordinator for electric utilities, any regional planning organization serving electric utilities, public interest and environmental organizations, and the regional entity for the western interconnection identifying the potential benefits, impacts, and risks on system reliability associated with achieving the standards described in sections 4 and 5 of this act. The evaluation must assess whether electric utilities have sufficient electric generation resources to meet forecasted retail electric load in addition to adequate transmission capability to implement sections 3 through 5 of this act without: (i) Violating mandatory and enforceable reliability standards of the North American electric reliability corporation; (ii) violating prudent utility practice for assuring resource adequacy; or (iii) compromising the power quality or integrity of the electricity system. Subject to funding appropriated for

this purpose, the department must consult with a national laboratory with expertise in grid reliability, security, and resilience.

(b) The evaluation should assess the anticipated financial costs and benefits of investments necessary to correct those deficiencies at the lowest reasonable costs as identified by electric utilities, transmission operators in Washington, the regional entity for the western interconnection, or any regional planning organization serving electric utilities. The assessment of these investments in the report is not deemed to be approval of such investments for rate recovery by any authorizing entity.

(3) An evaluation identifying the nature of any anticipated financial costs and benefits to electric utilities, including customer rate impacts and benefits including, but not limited to:

(a) Greenhouse gas emissions of electric utilities;

(b) The allocation of risk between customers and electric utilities;

(c) The allocation of financial costs among electric utilities in the state and whether retail electric customers are equitably bearing the financial costs of implementing sections 3 through 5 of this act;

(d) The timing of cost recovery for electricity generated by nonemitting electric generation or renewable resources;

(e) The resource procurement process of electric utilities; and

(f) The barriers to, and benefits of, implementing sections 4 and 5 of this act.

(4) An evaluation of new or emerging technologies that could be considered to be a renewable resource.

(5) An assessment of the impacts of sections 3 through 5 of this act on middle-income families, small businesses, and manufacturers in Washington.

NEW SECTION. Sec. 9. (1)(a) An electric utility or an affected market customer that fails to meet the standards established under sections 3(1) and 4(1) of this act must pay an administrative penalty to the state of Washington in the amount of one hundred dollars, times the following multipliers, for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation:

(i) 1.5 for coal-fired resources;

(ii) 0.84 for gas-fired peaking power plants; and

(iii) 0.60 for gas-fired combined-cycle power plants.

(b) Beginning in 2027, this penalty must be adjusted on a biennial basis according to the rate of change of the inflation indicator, gross domestic product implicit price deflator, as published by the bureau of economic analysis of the United States department of commerce or its successor. Beginning in 2040, the commission may by rule increase this penalty for investor-owned utilities if the commission determines that doing so will accelerate utilities' compliance with the standards established under this chapter and that doing so is in the public interest.

(2) Consistent with the requirements of section 4(1)(b) of this act, a utility may opt to make a payment in the amount of the administrative penalty as an alternative compliance payment, without incurring a penalty for noncompliance.

(3)(a) Upon its own motion or at the request of an investor-owned utility, and after a hearing, the commission may issue an order relieving the utility of its

administrative penalty obligation under subsection (1) of this section if it finds that:

(i) After taking all reasonable measures, the investor-owned utility's compliance with this chapter is likely to result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation, violate prudent utility practice for assuring resource adequacy, or compromise the power quality or integrity of its system; or

(ii) The investor-owned utility is unable to comply with the standards established in section 3(1) or 4(1) of this act due to reasons beyond the reasonable control of the investor-owned utility, as set forth in subsection (6) of this section.

(b) If the commission issues an order pursuant to (a) of this subsection that relieves an investor-owned utility of its administrative penalty obligation under subsection (1) of this section, the commission may issue an order:

(i) Temporarily exempting the investor-owned utility from the requirements of section 4(1) of this act for an amount of time sufficient to allow the investor-owned utility to achieve full compliance with the standard;

(ii) Directing the investor-owned utility to file a progress report to the commission on achieving full compliance with the standard within six months after issuing the order, or within an amount of time determined to be reasonable by the commission; and

(iii) Directing the investor-owned utility to take specific actions to achieve full compliance with the requirements of this chapter.

(c) An investor-owned utility may request an extension of a temporary exemption granted under this section. An investor-owned utility that requests an extension must request an update to the order issued by the commission under (b) of this subsection.

(4) Subsection (3) of this section does not permanently relieve an investor-owned utility of its obligation to comply with the requirements of this chapter.

(5)(a) The governing body of a consumer-owned utility may authorize a temporary exemption from the standard established under section 4(1) of this act, for an amount of time sufficient to allow the consumer-owned utility to achieve full compliance with the standard, if the governing body finds that:

(i) The consumer-owned utility's compliance with the standard is likely to: Result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation; violate prudent utility practice for assuring resource adequacy; or compromise the power quality or integrity of its system; or

(ii) The consumer-owned utility is unable to comply with the standard due to reasons beyond the reasonable control of the utility, as set forth in subsection (6) of this section; and

(iii) The consumer-owned utility has provided to the department a plan demonstrating how it plans to achieve full compliance with the standard, consistent with the findings of the report submitted to the legislature under section 8 of this act.

(b) Upon request by the governing body of a consumer-owned utility, a consumer-owned utility must be relieved of its administrative penalty obligation under subsection (1) of this section if the auditor issues a finding that:

(i) The governing body of the consumer-owned utility has properly issued a temporary exemption under (a) of this subsection for a period of time not to exceed six months; and

(ii) The governing body of the consumer-owned utility has submitted to the department a plan to take specific actions to achieve full compliance with the standard, consistent with the findings of the report submitted to the legislature under section 8 of this act.

(c) Upon issuance of a finding by the auditor, the consumer-owned utility must submit a progress report to the department on achieving full compliance with the standard within the term authorized in the temporary exemption.

(d) A consumer-owned utility may request an extension of a temporary exemption granted under this subsection, subject to the same requirements as provided in (a) through (c) of this subsection.

(e) The attorney general may bring a civil action in the name of the state for any appropriate civil remedy including, but not limited to, injunctive relief, penalties, costs, and attorneys' fees, to enforce compliance with this chapter:

(i) Upon the failure of the governing body of a consumer-owned utility to comply with the conditions of a temporary exemption found by the auditor to be properly adopted or extended; or

(ii) Upon failure of the governing body of a consumer-owned utility to comply with a finding by the auditor that a temporary exemption is not properly granted.

(f) This subsection does not permanently relieve a consumer-owned utility of its obligation to comply with the requirements of this chapter.

(6) To the extent an event or circumstance cannot be reasonably foreseen and ameliorated, such events or circumstances beyond the reasonable control of an electric utility may include but are not limited to:

(a) Weather-related damage;

(b) Natural disasters;

(c) Mechanical or resource failure;

(d) Failure of a third party to meet contractual obligations to the electric utility;

(e) Actions of governmental authorities that adversely affect the generation, transmission, or distribution of nonemitting electric generation or renewable resources owned or under contract to an electric utility, including condemnation actions by municipal electric utilities, public utility districts, or irrigation districts that adversely affect an investor-owned utility's ability to meet the standard established in sections 3(1) and 4(1) of this act;

(f) Inability to acquire sufficient transmission to transmit electricity from nonemitting electric generation or renewable resources to load; and

(g) Substantial limitations, restrictions, or prohibitions on nonemitting electric generation or renewable resources.

(7) An electric utility must notify its retail electric customers in published form within three months of paying the administrative penalty established under subsection (1) of this section. An electric utility is not required to notify its retail electric customers when making a payment in the amount of the administrative penalty as an alternative compliance payment consistent with the requirements of section 4(1)(b) of this act.

(8) Moneys collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70.164.030.

(9) For an investor-owned utility, the commission must determine compliance with the requirements of this chapter.

(10) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

(11) If the report submitted under section 8 of this act demonstrates adverse system reliability impacts from the implementation of sections 4 and 5 of this act, the governor, consistent with the emergency powers under RCW 43.21G.040, may suspend or delay implementation of this chapter, or exempt an electric utility from paying the administrative penalty under this section, until system reliability impacts can be addressed. Adverse system reliability impacts may include, but are not limited to, the inability of electric utilities or transmission operators to meet reliability standards mandated by federal or state law and required by prudent utility practices.

(12) Notwithstanding RCW 54.16.020, the fair market value compensation for an asset that is condemned by a municipal electric utility, public utility district, or irrigation district and that is either demonstrated in an electric utility's clean energy action plan or clean energy implementation plan to be used or acquired after the effective date of this section to meet the requirements of sections 4 and 5 of this act, or an asset that generates electricity from renewable resources or nonemitting electric generation, must include but not be limited to a replacement value approach. Additionally, the electric utility may seek, and the court may award, damages attributable to the severance, separation, replacement, or relocation of utility assets. The trier of fact may also consider other damages, as well as offsetting benefits, that it finds just and equitable.

(13) An entity that establishes or extends service to the premises of a customer who is being served by an electric utility or was served by an electric utility prior to the effective date of this section must serve those premises in a manner that complies with the requirements of this act and with chapter 19.285 RCW, if applicable. An electric utility or other entity that fails to comply with the requirements of this subsection must pay the administrative penalty under subsection (1) of this section for each megawatt-hour of electric generation used to serve load that does not meet the terms of this subsection.

NEW SECTION. Sec. 10. (1) It is the intent of this chapter that the commission and department adopt rules to streamline the implementation of this act with chapter 19.285 RCW to simplify compliance and avoid duplicative processes. It is the intent of the legislature that the commission and the department coordinate in developing rules related to process, timelines, and documentation that are necessary for the implementation of this chapter.

(2) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(3) The department may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to consumer-owned utilities. Nothing in this subsection may be construed to restrict the rate-making authority

of the governing body of a consumer-owned utility as otherwise provided by law.

(4) The department must adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with this chapter. The requirements must, to the extent practicable, be consistent with the disclosures required under chapter 19.29A RCW.

(5) An investor-owned utility must also report all information required in subsection (4) of this section to the commission.

(6) An electric utility must also make reports required in this section available to its retail electric customers.

(7) The department of ecology must adopt rules, in consultation with the commission and the department of commerce, to establish requirements for energy transformation project investments including, but not limited to, verification procedures, reporting standards, and other logistical issues as necessary.

(8) The department must adopt rules providing for the measuring and tracking of thermal renewable energy credits that may be used for compliance under section 4 of this act.

(9) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by January 1, 2021, unless specified otherwise elsewhere in this chapter. These rules may be revised as needed to carry out the intent and purposes of this chapter.

NEW SECTION. Sec. 11. The requirements of sections 3 through 9 of this act do not replace or modify the requirements established under chapter 19.285 RCW. All utility activities to comply with the requirements established under chapter 19.285 RCW also qualify for compliance with the requirements contained in this chapter, insofar as those activities meet the requirements of this act.

NEW SECTION. Sec. 12. (1) It is the intent of the legislature to demonstrate progress toward making energy assistance funds available to low-income households consistent with the policies identified in this section.

(2) An electric utility must make programs and funding available for energy assistance to low-income households by July 31, 2021. Each utility must demonstrate progress in providing energy assistance pursuant to the assessment and plans in subsection (4) of this section. To the extent practicable, priority must be given to low-income households with a higher energy burden.

(3) Beginning July 31, 2020, the department must collect and aggregate data estimating the energy burden and energy assistance need and reported energy assistance for each electric utility, in order to improve agency and utility efforts to serve low-income households with energy assistance. The department must update the aggregated data on a biennial basis, make it publicly accessible on its internet web site and, to the extent practicable, include geographic attributes.

(a) The aggregated data published by the department must include, but is not limited to:

(i) The estimated number and demographic characteristics of households served by energy assistance for each utility and the dollar value of the assistance;

(ii) The estimated level of energy burden and energy assistance need among customers served, accounting for household income and other drivers of energy burden;

(iii) Housing characteristics including housing type, home vintage, and fuel types; and

(iv) Energy efficiency potential.

(b) Each utility must disclose information to the department for use under this subsection, including:

(i) The amount and type of energy assistance and the number and type of households, if applicable, served for programs administered by the utility;

(ii) The amount of money passed through to third parties that administer energy assistance programs; and

(iii) Subject to availability, any other information related to the utility's low-income assistance programs that is requested by the department.

(c) The information required by (b) of this subsection must be from the electric utility's most recent completed budget period and in a form, timeline, and manner as prescribed by the department.

(4)(a) In addition to the requirements under subsection (3) of this section, each electric utility must submit biennially to the department an assessment of:

(i) The programs and mechanisms used by the utility to reduce energy burden and the effectiveness of those programs and mechanisms in both short-term and sustained energy burden reductions;

(ii) The outreach strategies used to encourage participation of eligible households, including consultation with community-based organizations and Indian tribes as appropriate, and comprehensive enrollment campaigns that are linguistically and culturally appropriate to the customers they serve in vulnerable populations; and

(iii) A cumulative assessment of previous funding levels for energy assistance compared to the funding levels needed to meet: (A) Sixty percent of the current energy assistance need, or increasing energy assistance by fifteen percent over the amount provided in 2018, whichever is greater, by 2030; and (B) ninety percent of the current energy assistance need by 2050.

(b) The assessment required in (a) of this subsection must include a plan to improve the effectiveness of the assessed mechanisms and strategies toward meeting the energy assistance need.

(5) A consumer-owned utility may enter into an agreement with a public university, community-based organization, or joint operating agency organized under chapter 43.52 RCW to aggregate the disclosures required in this section and submit the assessment required in subsections (3) and (4) of this section.

(6)(a) The department must submit a biennial report to the legislature that:

(i) Aggregates information into a statewide summary of energy assistance programs, energy burden, and energy assistance need;

(ii) Identifies and quantifies current expenditures on low-income energy assistance; and

(iii) Evaluates the effectiveness of additional optimal mechanisms for energy assistance including, but not limited to, customer rates, a low-income specific discount, system benefits charges, and public and private funds.

(b) The department must also assess mechanisms to prioritize energy assistance towards low-income households with a higher energy burden.

(7) Nothing in this section may be construed to restrict the rate-making authority of the commission or the governing body of a consumer-owned utility as otherwise provided by law.

NEW SECTION. Sec. 13. (1) The department and the commission must convene a stakeholder work group to examine the:

(a) Efficient and consistent integration of this act and transactions with carbon and electricity markets outside the state; and

(b) Compatibility of the requirements under this act relative to a linked cap-and-trade program.

(2) To assist in its examination of the issues identified in this section, as well as any other issues pertinent to its review, the work group must, at a minimum, consist of electric utilities, gas companies, the Bonneville power administration, public interest and environmental organizations, and other agencies.

(3) The department and the commission must adopt rules by June 30, 2022, defining requirements, including appropriate specification, verification, and reporting requirements, for the following: (a) Retail electric load met with market purchases and the western energy imbalance market or other centralized market administered by a market operator for the purposes of sections 3 through 5 of this act; and (b) to address the prohibition on double counting of nonpower attributes under section 4(1) of this act that could occur under other programs. With respect to purchases from the western energy imbalance market or other centralized market, the department and the commission must consult with the market operator and market participants to consider options that support the objectives of this chapter and the efficient dispatch of the generation resources dispatched by those markets.

Sec. 14. RCW 19.280.030 and 2015 3rd sp.s. c 19 s 9 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers (~~shall~~) must develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the assessment for conservation potential under RCW 19.285.040 for the planning horizon consistent with (a) of this subsection. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, including but not limited to battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) An assessment and ten-year forecast of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers;

(g) A determination of resource adequacy metrics for the resource plan consistent with the forecasts;

(h) A forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;

(i) An identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing sections 3 through 5 of this act;

(j) The integration of the demand forecasts (~~and~~), resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events and implementing sections 3 through 5 of this act, at the lowest reasonable cost and risk to the utility and its (~~ratepayers~~) customers, while maintaining and protecting the safety, reliable operation, and balancing of its electric system; (~~and~~

~~(g))~~ (k) An assessment, informed by the cumulative impact analysis conducted under section 24 of this act, of: Energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk; and

(l) A (~~short-term plan identifying~~) ten-year clean energy action plan for implementing sections 3 through 5 of this act at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) For an investor-owned utility, the clean energy action plan must: (a) Identify and be informed by the utility's ten-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable; (b) establish a resource adequacy requirement; (c) identify the potential cost-effective demand response and load management programs that may be acquired; (d) identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement; (e) identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities; and (f) identify

the nature and possible extent to which the utility may need to rely on alternative compliance options under section 4(1)(b) of this act, if appropriate.

(3)(a) An electric utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to section 15 of this act and the department for consumer-owned utilities, when developing integrated resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

- (i) Evaluating and selecting conservation policies, programs, and targets;
- (ii) Developing integrated resource plans and clean energy action plans; and
- (iii) Evaluating and selecting intermediate term and long-term resource options.

(b) For the purposes of this subsection (3): (i) Gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered a nonemitting resource; and (ii) qualified biomass energy must be considered a nonemitting resource.

(4) To facilitate broad, equitable, and efficient implementation of this act, a consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW or other nonprofit organization to develop and implement a joint clean energy action plan in collaboration with other utilities.

(5) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

- (a) Estimates loads for the next five and ten years;
- (b) Enumerates the resources that will be maintained and/or acquired to serve those loads; (~~and~~)
- (c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made; and

(d) By December 31, 2020, and in every resource plan thereafter, identifies how the utility plans over a ten-year period to implement sections 4 and 5 of this act.

~~((3))~~ (6) Assessments for demand side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

~~((4))~~ (7) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

~~((5) Resource)~~ (8) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission or the department, or at a minimum on intervals of two years.

~~((6))~~ (9) Plans shall not be a basis to bring legal action against electric utilities.

~~((7))~~ (10)(a) To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

(11) By December 31, 2021, the department and the commission must adopt rules establishing the requirements for incorporating the cumulative impact analysis developed under section 24 of this act into the criteria for developing clean energy action plans under this section.

NEW SECTION. Sec. 15. A new section is added to chapter 80.28 RCW to read as follows:

For the purposes of this act, the cost of greenhouse gas emissions resulting from the generation of electricity, including the effect of emissions, is equal to the cost per metric ton of carbon dioxide equivalent emissions, using the two and one-half percent discount rate, listed in table 2, technical support document: Technical update of the social cost of carbon for regulatory impact analysis under Executive Order No. 12866, published by the interagency working group on social cost of greenhouse gases of the United States government, August 2016. The commission must adjust the costs established in this section to reflect the effect of inflation.

Sec. 16. RCW 80.84.010 and 2016 c 220 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) "Eligible coal plant" means a coal-fired electric generation facility that: (a) ~~((Had two or fewer generating units as of January 1, 1980, and four generating units as of January 1, 2016; (b)))~~ Is owned in whole or in part by more than one electrical company as of January 1, 2016; and ~~((e))~~ (b) provides, as a portion of the load served by the coal-fired electric generation facility, electricity paid for in rates by customers in the state of Washington.

(2) "Eligible coal unit" means any generating unit of an eligible coal plant.

NEW SECTION. Sec. 17. This section is the tax preference performance statement for the tax preferences contained in sections 18 and 19, chapter . . . , Laws of 2019 (sections 18 and 19 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.

(1) 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).

(2) It is the legislature's specific public policy objective to reduce the amount of carbon dioxide emissions in Washington. It is the legislature's intent to extend the expiration date of and expand the existing sales and use tax exemption for machinery and equipment used directly in generating certain types of alternative energy, in order to reduce the price charged to customers for that machinery and equipment, thereby inducing some customers to buy

machinery and equipment for alternative energy when they might not otherwise, thereby displacing electricity from fossil-fueled generating resources, thereby reducing the amount of carbon dioxide emissions in Washington. It is also the intent of the legislature to maximize cost savings associated with clean energy construction for Washington electric customers by encouraging development of these resources in time for projects to benefit from both this incentive and expiring federal incentives.

(3) It is also the legislature's specific public policy objective to provide an incentive for more of the projects that meet the objectives of subsection (2) of this section to be constructed with high labor standards, including family level wages and providing benefits including health care and pensions, as well as maximizing access to economic benefits from such projects for local workers and diverse businesses.

(4) The joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW for the tax preferences contained in sections 18 and 19, chapter . . . , Laws of 2019 (sections 18 and 19 of this act) and it is the intent of the legislature to allow the tax preferences to expire upon their scheduled expiration dates.

Sec. 18. RCW 82.08.962 and 2018 c 164 s 5 are each amended to read as follows:

(1)(a) ~~((Except as provided in RCW 82.08.963, purchasers who have paid))~~ Subject to the requirements of this section, the tax imposed by RCW 82.08.020 ~~((~~en~~))~~ does not apply to sales of machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, ((are eligible for an exemption as provided in this section,)) but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the purchaser must pay the state and local sales tax on such sales and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through ~~((January 1, 2020))~~ December 31, 2019, the amount of the exemption under this subsection (1)(b) is equal to seventy-five percent of the state and local sales tax paid. The purchaser is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

(c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local sales tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under subsection (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations;

apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, and labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser provides the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations, consistent with (e)(ii)(D) of this subsection;

(ii) Seventy-five percent of the state and local sales tax paid, if the department of labor and industries certifies that the project complies with (c)(i)(A) and (B) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries. This subsection (1)(c)(ii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection; or

(iii) One hundred percent of the state and local sales tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1)(c)(iii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning July 1, 2019, and through December 31, 2029, the purchaser is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local sales tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e)(i) of this subsection, and the seller meets the following requirements at the time of the sale for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(D) Has had no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months.

(f) Purchasers claiming an exemption under (e) of this subsection must provide the seller with an exemption certificate in a form and manner prescribed by the department.

(g) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2)(a) The department of labor and industries must adopt emergency and permanent rules to:

(i) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(ii) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(b) Emergency rules must be adopted by December 1, 2019, and take effect January 1, 2020.

(3) For purposes of this section and RCW 82.12.962, the following definitions apply:

(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(b) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to

restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

~~((3))~~ (d) "Project labor agreement" and "community workforce agreement" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(4)(a) Machinery and equipment is "used directly" in generating electricity by wind energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust if it provides any part of the process that captures the energy of the wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(b) Machinery and equipment is "used directly" in generating electricity by fuel cells if it provides any part of the process that captures the energy of the fuel, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

~~((4))~~ (5)(a)(i) A purchaser claiming an exemption in the form of a remittance under subsection (1)(b) or (c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries as prescribed by rule under subsection (2) of this section.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

~~((5) The exemption provided by this section expires September 30, 2017, as it applies to: (a))~~ (6)(a) Except as otherwise provided in (c) of this subsection, from October 1, 2017, through December 31, 2019, the exemption provided by this section does not apply to: (i) Machinery and equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts AC of electricity; or ((b)) (ii) sales of or

charges made for labor and services rendered in respect to installing such machinery and equipment.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after January 1, 2020.

(c) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after July 1, 2019.

~~((6))~~ (7) This section expires January 1, ~~((2020))~~ 2030.

Sec. 19. RCW 82.12.962 and 2018 c 164 s 7 are each amended to read as follows:

(1)(a) ~~((Except as provided in RCW 82.12.963, consumers who have paid))~~ Subject to the requirements of this section, the tax imposed by RCW 82.12.020 ~~((on))~~ does not apply to machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, or to ~~((sales of or charges made for))~~ labor and services rendered in respect to installing such machinery and equipment, ~~((are eligible for an exemption as provided in this section,))~~ but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the consumer must pay the state and local use tax on the use of such machinery and equipment and labor and services, and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through ~~((January 1, 2020))~~ December 31, 2019, the amount of the exemption under this subsection (1) is equal to seventy-five percent of the state and local ~~((sales))~~ use tax paid. The consumer is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

~~((2))~~ (c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local use tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified

businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser has provided the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations, consistent with (e)(ii)(D) of this subsection;

(ii) Seventy-five percent of the state and local use tax paid, if the department of labor and industries certifies that the project complies with (c)(i)(A) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries. This subsection (1)(c)(ii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection; or

(iii) One hundred percent of the state and local use tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1)(c)(iii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning July 1, 2019, and through December 31, 2029, the consumer is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local use tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e)(i) of this subsection, and the seller meets the following requirements at the time of the purchase for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment

security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(D) Has had no findings of violations of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months.

(f) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2) The department of labor and industries must initiate an emergency rule making on the effective date of this section to be completed by December 1, 2019, to:

(a) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(b) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(3)(a)(i) A person claiming an exemption in the form of a remittance under subsection (1)(b) and (c) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this section more frequently than once per quarter. The consumer must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries under subsection (1) of this section.

(b) The department must determine eligibility for remittances under this section based on the information provided by the consumer, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying consumers who submitted applications during the previous quarter.

~~((3))~~ (4) Purchases exempt under RCW 82.08.962 are also exempt from the tax imposed under RCW 82.12.020.

~~((4))~~ (5) The definitions in RCW 82.08.962 apply to this section.

~~((5))~~ (6) The exemption provided in subsection (1) of this section does not apply:

(a) To machinery and equipment used directly in the generation of electricity using solar energy and capable of generating no more than five

hundred kilowatts AC of electricity, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after September 30, 2017, and before January 1, 2020, except as otherwise provided in subsection (7) of this section; and

(b) To any other machinery and equipment described in subsection (1)(a) of this section, or to sales of or charges made for labor and services rendered in respect to installing such machinery or equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after December 31, ~~((2019))~~ 2029.

~~((6))~~ (7)(a) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after January 1, 2020.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after July 1, 2019.

(8) This section expires January 1, ~~((2020))~~ 2030.

Sec. 20. RCW 80.04.250 and 2011 c 214 s 9 are each amended to read as follows:

(1) The provisions of this section are necessary to ensure that the commission has sufficient flexible authority to determine the value of utility property for rate making purposes and to implement the requirements and full intent of this act.

(2) The commission has power upon complaint or upon its own motion to ascertain and determine the fair value for rate making purposes of the property of any public service company used and useful for service in this state by or during the rate effective period and shall exercise such power whenever it deems such valuation or determination necessary or proper under any of the provisions of this title. ~~((In determining what property is used and useful for providing electric, gas, wastewater company services, or water service, the commission may include the reasonable costs of construction work in progress to the extent that the commission finds that inclusion is in the public interest.~~

(2)) The valuation may include consideration of any property of the public service company acquired or constructed by or during the rate effective period, including the reasonable costs of construction work in progress, to the extent that the commission finds that such an inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.

(3) The commission may provide changes to rates under this section for up to forty-eight months after the rate effective date using any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates. The commission must establish an appropriate process to identify, review, and approve public service company property that becomes used and useful for service in this state after the rate effective date.

(4) The commission has the power to make revaluations of the property of any public service company from time to time.

~~((3))~~ (5) The commission shall, before any hearing is had, notify the complainants and the public service company concerned of the time and place of such hearing by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of the company's property, used and useful as aforesaid, which notice must be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

(6) Nothing in this section limits the commission's authority to consider and implement performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms.

NEW SECTION, Sec. 21. A new section is added to chapter 80.28 RCW to read as follows:

(1) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with major projects in the electrical company's clean energy action plan pursuant to RCW 19.280.030(1)(I), or selected in the electrical company's solicitation of bids for delivering electric capacity, energy, capacity and energy, or conservation. The deferral in this subsection begins with the date on which the resource begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed thirty-six months. However, if during such a period the electrical company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such a proceeding. Creation of such a deferral account does not by itself determine the actual costs of the resource or power purchase agreement, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding.

(2) The costs that an electrical company may account for and defer for later consideration by the commission pursuant to subsection (1) of this section include all operating and maintenance costs, depreciation, taxes, cost of capital associated with the applicable resource or the execution of a power purchase agreement. Such costs of capital include:

(a) The electrical company's authorized return on equity for any resource acquired or developed by the electrical company; or

(b) For the duration of a power purchase agreement, a rate of return of no less than the authorized cost of debt and no greater than the authorized rate of return of the electrical company, which would be multiplied by the operating expense incurred by the electrical company under the power purchase agreement.

Sec. 22. RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:

~~(1) The department shall review the state energy strategy ((as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws~~

of 1991-) by December 31, 2020, and at least once every eight years thereafter, subject to funding provided for this purpose, for the purpose of aligning the state energy strategy with the requirements of RCW 43.21F.088 and chapters 19.285 and 19.--- RCW (the new chapter created in section 27 of this act), and the emission reduction targets recommended by the department of ecology under RCW 70.235.040. The department must establish an energy strategy advisory committee for each review to provide guidance to the department in conducting the review. The membership of the energy strategy advisory committee must consist of the following:

(a) One person recommended by investor-owned electric utilities;
(b) One person recommended by investor-owned natural gas utilities;
(c) One person employed by or recommended by a natural gas pipeline serving the state;

(d) One person recommended by suppliers of petroleum products;
(e) One person recommended by municipally owned electric utilities;
(f) One person recommended by public utility districts;
(g) One person recommended by rural electrical cooperatives;
(h) One person recommended by industrial energy users;
(i) One person recommended by commercial energy users;
(j) One person recommended by agricultural energy users;
(k) One person recommended by the association of Washington cities;
(l) One person recommended by the Washington association of counties;
(m) One person recommended by Washington Indian tribes;
(n) One person recommended by businesses in the clean energy industry;
(o) One person recommended by labor unions;
(p) Two persons recommended by civic organizations, one of which must be a representative of a civic organization that represents vulnerable populations;
(q) Two persons recommended by environmental organizations;
(r) One person representing independent power producers;
(s) The chair of the energy facility site evaluation council or the chair's designee;

(t) One of the representatives of the state of Washington to the Pacific Northwest electric power and conservation planning council selected by the governor;

(u) The chair of the utilities and transportation commission or the chair's designee;

(v) One member from each of the two largest caucuses of the house of representatives selected by the speaker of the house of representatives; and

(w) One member from each of the two largest caucuses of the senate selected by the president of the senate.

(2) The chair of the advisory committee must be appointed by the governor from citizen members. The director may establish technical advisory groups as necessary to assist in the development of the strategy. The director shall provide for extensive public involvement throughout the development of the strategy.

(3) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. ((Any)) The energy strategy advisory committee

established under this section (~~shall~~) must be dissolved within three months after their written report is conveyed.

NEW SECTION. Sec. 23. (1) By January 1, 2020, the department of commerce must convene an energy and climate policy advisory committee to develop recommendations to the legislature for the coordination of existing resources, or the establishment of new ones, for the purposes of examining the costs and benefits of energy-related policies, programs, functions, activities, and incentives on an on-going basis and conducting other energy-related studies and analyses as may be directed by the legislature.

(2) The advisory committee convened under this section must consist of, at minimum, representatives of each the state's public four-year institutions of higher education, the Pacific Northwest National Laboratory, and the Washington state institute for public policy.

(3) Subject to the availability of amounts appropriated for this specific purpose, and in compliance with RCW 43.01.036, the department of commerce must submit its recommendations in a report to the legislature by December 31, 2020.

(4) This section expires January 1, 2021.

NEW SECTION. Sec. 24. By December 31, 2020, the department of health must develop a cumulative impact analysis to designate the communities highly impacted by fossil fuel pollution and climate change in Washington. The cumulative impact analysis may integrate with and build upon other concurrent cross-agency efforts in developing a cumulative impact analysis and population tracking resources used by the department of health and analysis performed by the University of Washington department of environmental and occupational health sciences.

NEW SECTION. Sec. 25. (1) The legislature finds that based on current technology, there will likely need to be upgrades to electricity transmission and distribution infrastructure across the state to meet the goals specified in this act. These facilities require a significant planning horizon to deliver electricity generation sites to retail electric load. Pursuant to RCW 80.50.040, the energy facility site evaluation council chair shall convene a transmission corridors work group and report its findings to the governor and the appropriate committees of the legislature by December 31, 2022.

(2) The work group must include one representative from each of the following state agencies: The department of commerce, the utilities and transportation commission, the department of ecology, the department of fish and wildlife, the department of natural resources, the department of transportation, the department of archaeology and historic preservation, and the state military department. The work group shall also include two representatives designated by the association of Washington cities, one from central or eastern Washington and one from western Washington; two representatives designated by the Washington state association of counties, one from central or eastern Washington and one from western Washington; two members designated by sovereign tribal governments; one member representing affected utility industries; one member representing public utility districts; and two members representing statewide environmental organizations. The energy facility site evaluation council chair shall invite the Bonneville power administration and the

United States department of defense to each appoint an ex officio work group member.

(3) The work group shall:

(a) Review the need for upgraded and new electricity transmission and distribution facilities to improve reliability, relieve congestion, and enhance the capability of the transmission and distribution facilities in the state to deliver electricity from electric generation, nonemitting electric generation, or renewable resources to retail electric load;

(b) Identify areas where transmission and distribution facilities may need to be enhanced or constructed; and

(c) Identify environmental review options that may be required to complete the designation of such corridors and recommend ways to expedite review of transmission projects without compromising required environmental protection.

(4) The energy facility site evaluation council may contract services to assist in the work group efforts.

(5) This section expires January 1, 2023.

NEW SECTION. Sec. 26. This chapter may be known and cited as the Washington clean energy transformation act.

NEW SECTION. Sec. 27. Sections 1 through 13 and 26 of this act constitute a new chapter in Title 19 RCW.

Sec. 28. RCW 19.285.030 and 2017 c 315 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) "Attorney general" means the Washington state office of the attorney general.

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

(3)(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.

(4) "Coal transition power" has the same meaning as defined in RCW 80.80.010.

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

(6) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(7) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(8) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(9) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(10) "Department" means the department of commerce or its successor.

(11) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(12) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services;

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest where the additional generation does not result in new water diversions or impoundments;

(c) Hydroelectric generation from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, water pipes whose primary purpose is for conveyance of water for municipal use, and wastewater pipes located in Washington where the generation does not result in new water diversions or impoundments;

(d) Qualified biomass energy;

(e) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and (ii) the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months or more; ~~(e)(f)~~

(f)(i) Incremental electricity produced as a result of a capital investment completed after January 1, 2010, that increases, relative to a baseline level of generation prior to the capital investment, the amount of electricity generated in a facility that generates qualified biomass energy as defined under subsection (18)(c)(ii) of this section and that commenced operation before March 31, 1999.

(ii) Beginning January 1, 2007, the facility must demonstrate its baseline level of generation over a three-year period prior to the capital investment in order to calculate the amount of incremental electricity produced.

(iii) The facility must demonstrate that the incremental electricity resulted from the capital investment, which does not include expenditures on operation and maintenance in the normal course of business, through direct or calculated measurement;

(g) That portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of the electricity output from hydroelectric generation projects whose energy output is marketed by the Bonneville power administration where the additional generation does not result in new water diversions or impoundments; or

(h) The environmental attributes, including renewable energy credits, from (g) of this subsection transferred to investor-owned utilities pursuant to the Bonneville power administration's residential exchange program.

(13) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(14) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(15)(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 from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible 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.

(16) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(17) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(18) "Qualified biomass energy" means electricity produced from a biomass energy facility that: (a) Commenced operation before March 31, 1999; (b) contributes to the qualifying utility's load; and (c) is owned either by: (i) A qualifying utility; or (ii) an industrial facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

(19) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(20) "Renewable energy credit" means a tradable certificate of proof of ~~((at least))~~ one megawatt-hour of an eligible renewable resource ~~((where the generation facility is not powered by freshwater))~~. 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.

(21) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel ~~((as defined in RCW 82.29A.135))~~ that is not derived from crops raised on land cleared from old growth or first-

growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

(22) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(23) "Year" means the twelve-month period commencing January 1st and ending December 31st.

Sec. 29. RCW 19.285.040 and 2017 c 315 s 2 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in the most recently published regional power plan as it existed on June 12, 2014, or a subsequent date as may be provided by the department or the commission by rule, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility specific conservation measures, values, and assumptions in identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection, beginning on January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty percent of any biennial target may be met with excess conservation savings.

(ii) Beginning January 1, 2014, a qualifying utility may use single large facility conservation savings in excess of its biennial target to meet up to an additional five percent of the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined. For the purposes of this subsection (1)(c)(ii), "single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a qualifying utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts.

(iii) Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between ninety-five thousand and one hundred fifteen thousand that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage may use cost-effective conservation from that industrial

facility in excess of its biennial acquisition target to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined.

(d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(e) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(f) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Except as provided in (j) of this subsection, each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

~~(e) ((The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the~~

~~subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section))~~ A qualifying utility may use renewable energy credits to meet the requirements of this section, subject to the limitations of this subsection.

(i) A renewable energy credit from electricity generated by a resource other than freshwater may be used to meet a requirement applicable to the year in which the credit was created, the year before the year in which the credit was created, or the year after the year in which the credit was created.

(ii) A renewable energy credit from electricity generated by freshwater:

(A) May only be used to meet a requirement applicable to the year in which the credit was created; and

(B) Must be acquired by the qualifying utility through ownership of the generation facility or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity.

(iii) A renewable energy credit transferred to an investor-owned utility pursuant to the Bonneville power administration's residential exchange program may not be used by any utility other than the utility receiving the credit from the Bonneville power administration.

(iv) Each renewable energy credit may only be used once to meet the requirements of this section and must be retired using procedures of the renewable energy credit tracking system.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or

distribution of an eligible renewable resource under contract to a qualifying utility.

(j)(i) Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its compliance obligation under this subsection.

(ii) A qualifying utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

(k) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with qualified biomass energy generated at its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.

(l) Beginning January 1, 2020, a qualifying utility may use eligible renewable resources as identified under RCW 19.285.030(12) (g) and (h) to meet its compliance obligation under this subsection (2). A qualifying utility may not transfer or sell these eligible renewable resources to another utility for compliance purposes under this chapter.

(m) Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual target in (a) of this subsection if the utility uses electricity from: (i) Renewable resources and renewable energy credits as defined in RCW 19.285.030; and (ii) nonemitting electric generation as defined in section 2 of this act, in an amount equal to one hundred percent of the utility's average annual retail electric load. Nothing in this subsection relieves the requirements of a qualifying utility to comply with subsection (1) of this section.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

NEW SECTION. Sec. 30. 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. 31. 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 22, 2019.

Passed by the House April 11, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 289

[Engrossed Substitute House Bill 1578]

OIL TRANSPORTATION SAFETY

AN ACT Relating to reducing threats to southern resident killer whales by improving the safety of oil transportation; amending RCW 88.16.190, 88.46.240, 90.56.565, and 88.46.165; adding a new section to chapter 88.16 RCW; adding new sections to chapter 88.46 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 a variety of existing policies designed to reduce the risk of oil spills have helped contribute to a relatively strong safety record for oil moved by water, pipeline, and train in recent years in Washington state. Nevertheless, gaps exist in our safety regimen, especially deriving from shifts in the modes of overwater transportation of oil and the increased transport of oils that may submerge or sink, contributing to an unacceptable threat to Washington waters, where a catastrophic spill would inflict potentially irreversible damage on the endangered southern resident killer whales. In addition to the unique marine and cultural resources in Puget Sound that would be damaged by an oil spill, the geographic, bathometric, and other environmental peculiarities of Puget Sound present navigational challenges that heighten the risk of an oil spill incident occurring. Therefore, it is the intent of the legislature to enact certain new safety requirements designed to reduce the current, acute risk from existing infrastructure and activities of an oil spill that could eradicate our whales, violate the treaty interests and fishing rights of potentially affected federally recognized Indian tribes, damage commercial fishing prospects, undercut many aspects of the economy that depend on the Salish Sea, and otherwise harm the health and well-being of Washington residents. In enacting such measures, however, it is not the intent of the legislature to mitigate, offset, or otherwise encourage additional projects or activities that would increase the frequency or severity of oil spills in the Salish Sea. Furthermore, it is the intent of the legislature for this act to assist in coordinating enhanced international discussions among federal, state, provincial, first nation, federally recognized Indian tribe, and industry leaders in the United States and Canada to develop an agreement for an additional emergency rescue tug available to vessels in distress in the narrow Straits of the San Juan Islands and other boundary waters, which would lessen oil spill risks to the marine environment in both the United States and Canada.

Sec. 2. RCW 88.16.190 and 1994 c 52 s 1 are each amended to read as follows:

(1) Any oil tanker, whether enrolled or registered, of greater than one hundred ~~((and))~~ twenty-five thousand deadweight tons shall be prohibited from proceeding beyond a point east of a line extending from Discovery Island light south to New Dungeness light, unless authorized by the United States coast guard, pursuant to 33 C.F.R. Sec. 165.1303.

~~(2) ((An oil tanker, whether enrolled or registered, of forty to one hundred and twenty five thousand deadweight tons may proceed beyond the points enumerated in subsection (1) if such tanker possesses all of the following standard safety features:~~

~~(a) Shaft horsepower in the ratio of one horsepower to each two and one-half deadweight tons; and~~

~~(b) Twin screws; and~~

~~(c) Double bottoms, underneath all oil and liquid cargo compartments; and~~

~~(d) Two radars in working order and operating, one of which must be collision avoidance radar; and~~

~~(e) Such other navigational position location systems as may be prescribed from time to time by the board of pilotage commissioners:~~

~~PROVIDED, That, if such forty to one hundred and twenty-five thousand deadweight ton tanker is in ballast or is under escort of a tug or tugs with an aggregate shaft horsepower equivalent to five percent of the deadweight tons of that tanker, subsection (2) of this section shall not apply: PROVIDED FURTHER, That additional tug shaft horsepower equivalencies may be required under certain conditions as established by rule and regulation of the Washington utilities and transportation commission pursuant to chapter 34.05 RCW: PROVIDED FURTHER, That))~~ (a)(i) An oil tanker of forty to one hundred twenty-five thousand deadweight tons may operate in the waters east of a line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area, including but not limited to the San Juan Islands and connected waterways and the waters south of Admiralty Inlet, to the extent that these waters are within the territorial boundaries of Washington, only if the oil tanker is under the escort of a tug or tugs that have an aggregate shaft horsepower equivalent to at least five percent of the deadweight tons of the escorted oil tanker.

(ii) Effective September 1, 2020, the following may operate in Rosario Strait and connected waterways to the east only if under the escort of a tug or tugs that have an aggregate shaft horsepower equivalent to at least five percent of the deadweight tons of a forty thousand deadweight ton oil tanker: (A) Oil tankers of between five thousand and forty thousand deadweight tons; and (B) both articulated tug barges and towed waterborne vessels or barges that are: (I) Designed to transport oil in bulk internal to the hull; and (II) greater than five thousand deadweight tons.

(iii) The requirements of (a)(ii) of this subsection: (A) Do not apply to vessels providing bunkering or refueling services; (B) do not apply to a towed general cargo deck barge; and (C) may be adjusted or suspended by rule by the board of pilotage commissioners, consistent with section 3(1)(c) of this act.

(b) An oil tanker, articulated tug barge, or towed waterborne vessel or barge in ballast or when unladen is not required to be under the escort of a tug.

(c) A tanker assigned a deadweight of less than forty thousand deadweight tons at the time of construction or reconstruction as reported in Lloyd's Register of Ships is not subject to the provisions of RCW 88.16.170 ((through 88.16.190)) and 88.16.180.

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

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Oil tanker" means a self-propelled deep draft tank vessel designed to transport oil in bulk. "Oil tanker" does not include an articulated tug barge tank vessel.

(c) "Towed general cargo deck barge" means a waterborne vessel or barge designed to carry cargo on deck.

(d) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

NEW SECTION. Sec. 3. A new section is added to chapter 88.16 RCW to read as follows:

(1)(a) By December 31, 2025, the board of pilotage commissioners, in consultation with the department of ecology, must adopt rules regarding tug escorts to address the peculiarities of Puget Sound for the following:

(i) Oil tankers of between five thousand and forty thousand deadweight tons; and

(ii) Both articulated tug barges and towed waterborne vessels or barges that are: (A) Designed to transport oil in bulk internal to the hull; and (B) greater than five thousand deadweight tons.

(b) The requirements of this section do not apply to:

(i) A towed general cargo deck barge; or

(ii) A vessel providing bunkering or refueling services.

(c) The rule making pursuant to (a) of this subsection must be for operating in the waters east of the line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area. This rule making must address the tug escort requirements applicable to Rosario Strait and connected waterways to the east established in RCW 88.16.190(2)(a)(ii), and may adjust or suspend those requirements based on expertise developed under subsection (5) of this section.

(d) To achieve the rule adoption deadline in (a) of this subsection, the board of pilotage commissioners must adhere to the following interim milestones:

(i) By September 1, 2020, identify and define the zones, specified in subsection (3)(a) of this section, to inform the analysis required under subsection (5) of this section;

(ii) By December 31, 2021, complete a synopsis of changing vessel traffic trends; and

(iii) By September 1, 2023, consult with potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders as required under subsection (6) of this section and complete the analysis required under subsection (5) of this section. By September 1, 2023, the department of ecology must submit a summary of the results of the analysis required under subsection (5) of this section to the legislature consistent with RCW 43.01.036.

(2) When developing rules, the board of pilotage commissioners must consider recommendations from potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and:

(a) The results of the most recently completed vessel traffic risk assessments;

(b) The report developed by the department of ecology as required under section 206, chapter 262, Laws of 2018;

(c) The recommendations included in the southern resident orca task force report, November 2018, and any subsequent research or reports on related topics;

(d) Changing vessel traffic trends, including the synopsis required under subsection (1)(d)(ii) of this section; and

(e) For any formally proposed draft rules or adopted rules, identified estimates of expected costs and benefits of the rule to:

(i) State government agencies to administer and enforce the rule; and

(ii) Private persons or businesses, by category of type of person or business affected.

(3) In the rules adopted under this section, the board of pilotage commissioners must:

(a) Base decisions for risk protection on geographic zones in the waters specified in subsection (1)(c) of this section. As the initial foci of the rules, the board of pilotage commissioners must equally prioritize geographic zones encompassing: (i) Rosario Strait and connected waterways to the east; and (ii) Haro Strait and Boundary Pass;

(b) Specify operational requirements, such as tethering, for tug escorts;

(c) Include functionality requirements for tug escorts, such as aggregate shaft horsepower for tethered tug escorts;

(d) Be designed to achieve best achievable protection, as defined in RCW 88.46.010, as informed by consideration of:

(i) Accident records in British Columbia and Washington waters;

(ii) Existing propulsion and design standards for covered tank vessels; and

(iii) The characteristics of the waterways; and

(e) Publish a document that identifies the sources of information that it relied upon in developing the rules, including any sources of peer-reviewed science and information submitted by tribes.

(4) The rules adopted under this section may not require oil tankers, articulated tug barges, or towed waterborne vessels or barges to be under the escort of a tug when these vessels are in ballast or are unladen.

(5) To inform rule making, the board of pilotage commissioners must conduct an analysis of tug escorts using the model developed by the department of ecology under section 4 of this act. The board of pilotage commissioners may:

(a) Develop scenarios and subsets of oil tankers, articulated tug barges, and towed waterborne vessels or barges that could preclude requirements from being imposed under the rule making for a given zone or vessel;

(b) Consider the benefits of vessel safety measures that are newly in effect on or after July 1, 2019, and prior to the adoption of rules under this section; and

(c) Enter into an interagency agreement with the department of ecology to assist with conducting the analysis and developing the rules, subject to each of the requirements of this section.

(6) The board of pilotage commissioners must consult with the United States coast guard, the Puget Sound harbor safety committee, potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, ports, local governments, state agencies, and other appropriate entities before adopting tug

escort rules applicable to any portion of Puget Sound. Considering relevant information elicited during the consultations required under this subsection, the board of pilotage commissioners must also design the rules with a goal of avoiding or minimizing additional underwater noise from vessels in the Salish Sea, focusing vessel traffic into established shipping lanes, protecting and minimizing vessel traffic impacts to established treaty fishing areas, and respecting and preserving the treaty-protected interests and fishing rights of potentially affected federally recognized Indian tribes.

(7) Rules adopted under this section must be periodically updated consistent with section 5 of this act.

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

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Oil tanker" means a self-propelled deep draft tank vessel designed to transport oil in bulk. "Oil tanker" does not include an articulated tug barge tank vessel.

(c) "Towed general cargo deck barge" means a waterborne vessel or barge designed to carry cargo on deck.

(d) "Waterborne vessels or barges" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

NEW SECTION. Sec. 4. A new section is added to chapter 88.46 RCW to read as follows:

(1) The department must develop and maintain a model to quantitatively assess current and potential future risks of oil spills from covered vessels in Washington waters, as it conducts ongoing oil spill risk assessments. The department must consult with the United States coast guard, potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders to: Determine model assumptions; develop scenarios to show the likely impacts of changes to model assumptions, including potential changes in vessel traffic, commodities transported, and vessel safety and risk reduction measures; and update the model periodically.

(2) Utilizing the model pursuant to subsection (1) of this section, the department must quantitatively assess whether an emergency response towing vessel serving Haro Strait, Boundary Pass, Rosario Strait, and connected navigable waterways will reduce oil spill risk. The department must report its findings to the legislature by September 1, 2023.

NEW SECTION. Sec. 5. A new section is added to chapter 88.46 RCW to read as follows:

(1) By October 1, 2028, and no less often than every ten years thereafter, the board of pilotage commissioners and the department must together consider:

(a) The effects of rules established under RCW 88.16.190 and section 3 of this act on vessel traffic patterns and oil spill risks in the Salish Sea. Factors considered must include modeling developed by the department under section 4

of this act and may include: (i) Vessel traffic data; (ii) vessel accident and incident data, such as incidents where tug escorts or an emergency response towing vessel acted to reduce spill risks; and (iii) consultation with the United States coast guard, potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders; and

(b) Whether experienced or forecasted changes to vessel traffic patterns or oil spill risk in the Salish Sea necessitate an update to the tug escort rules adopted under section 3 of this act.

(2) In the event that the board of pilotage commissioners determines that updates are merited to the rules, the board must notify the appropriate standing committees of the house of representatives and the senate, and must thereafter adopt rules consistent with the requirements of section 3 of this act, including the consultation process outlined in section 3(6) of this act.

Sec. 6. RCW 88.46.240 and 2018 c 262 s 204 are each amended to read as follows:

(1) The department must establish the Salish Sea shared waters forum to address common issues in the cross-boundary waterways between Washington state and British Columbia such as: Enhancing efforts to reduce oil spill risk; addressing navigational safety; and promoting data sharing.

(2) The department must:

(a) Coordinate with provincial and federal Canadian agencies when establishing the Salish Sea shared waters forum; and

(b) Seek participation from each potentially affected federally recognized Indian treaty fishing tribe, other federally recognized treaty tribes with potentially affected interests, first nations, and stakeholders that, at minimum, includes representatives of the following: State, provincial, and federal governmental entities, regulated entities, and environmental organizations((; tribes, and first nations)).

(3) The Salish Sea shared waters forum must meet at least once per year to consider the following:

(a) Gaps and conflicts in oil spill policies, regulations, and laws;

(b) Opportunities to reduce oil spill risk, including requiring tug escorts for oil tankers, articulated tug barges, and ~~((other))~~ towed waterborne vessels or barges;

(c) Enhancing oil spill prevention, preparedness, and response capacity; ~~((and))~~

(d) Beginning in 2019, whether an emergency response system in Haro Strait, Boundary Pass, and Rosario Strait((, similar to the system implemented by the maritime industry pursuant to RCW 88.46.130,)) will decrease oil spill risk ((and how to fund such a shared system)). In advance of the 2019 meeting, the department must discuss the options of an emergency response system with all potentially affected federally recognized Indian treaty tribes and, as relevant, with organizations such as, but not limited to, the coast Salish gathering, which provides a transboundary natural resource policy dialogue of elected officials representing federal, state, provincial, first nations, and tribal governments within the Salish Sea; and

(e) The impacts of vessel traffic on treaty-protected fishing.

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

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

(5) This section expires July 1, 2021.

Sec. 7. RCW 90.56.565 and 2015 c 274 s 8 are each amended to read as follows:

(1)(a) A facility that receives crude oil from a railroad car must provide advance notice to the department that the facility will receive crude oil from a railroad car, as provided in this section. The advance notice must include the route taken to the facility within the state, if known, and the scheduled time, location, volume, region per bill of lading, type, and gravity as measured by standards developed by the American petroleum institute, of crude oil received. Each week, a facility that provides advance notice under this section must provide the required information regarding the scheduled arrival of railroad cars carrying crude oil to be received by the facility in the succeeding seven-day period. A facility is not required to provide advance notice when there is no receipt of crude oil from a railroad car scheduled for a seven-day period.

(b) Twice per year, pipelines that transport crude oil must report to the department the following information about the crude oil transported by the pipeline through the state: The volume of crude oil, gravity of the crude oil as measured by standards developed by the American petroleum institute, type of crude oil, and the state or province of origin of the crude oil. This report must be submitted each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(2) The department may share information provided by a facility through the advance notice system established in this section with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request.

(3) The department must publish information collected under this section on a quarterly basis on the department's internet web site. With respect to the information reported under subsection (1)(a) of this section, the information published by the department must be aggregated on a statewide basis by route through the state, by week, and by type of crude oil. The report may also include other information available to the department including, but not limited to, place of origin, modes of transport, number of railroad cars delivering crude oil, and number and volume of spills during transport and delivery.

(4) A facility providing advance notice under this section is not responsible for meeting advance notice time frame requirements under subsection (1) of this section in the event that the schedule of arrivals of railroad cars carrying crude oil changes during a seven-day period.

(5) Consistent with the requirements of chapter 42.56 RCW, the department and any state, local, tribal, or public agency that receives information provided under this section may not disclose any such information to the public or to

nongovernmental entities that contains proprietary, commercial, or financial information unless that information is aggregated. The requirement for aggregating information does not apply when information is shared by the department with emergency response agencies as provided in subsection (2) of this section.

(6) The department shall adopt rules to implement this section. The advance notice system required in this section must be consistent with the oil transfer reporting system adopted by the department pursuant to RCW 88.46.165.

Sec. 8. RCW 88.46.165 and 2006 c 316 s 1 are each amended to read as follows:

(1) The department's rules authorized under RCW 88.46.160 and this section shall be scaled to the risk posed to people and to the environment, and be categorized by type of transfer, volume of oil, frequency of transfers, and such other risk factors as identified by the department.

(2) The rules may require prior notice be provided before an oil transfer, regulated under this chapter, occurs in situations defined by the department as posing a higher risk. The notice may include the time, location, and volume of the oil transfer, as well as the region per bill of lading, gravity as measured by standards developed by the American petroleum institute, and type of crude oil. The rules may not require prior notice when marine fuel outlets are transferring less than three thousand gallons of oil in a single transaction to a ship that is not a covered vessel and the transfers are scheduled less than four hours in advance.

(3) The department may require semiannual reporting of volumes of oil transferred to ships by a marine fuel outlet.

(4) The rules may require additional measures to be taken in conjunction with the deployment of containment equipment or with the alternatives to deploying containment equipment. However, these measures must be scaled appropriately to the risks posed by the oil transfer.

(5) The rules shall include regulations to enhance the safety of oil transfers over water originating from vehicles transporting oil over private roads or highways of the state.

NEW SECTION. Sec. 9. 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 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 290

[Second Substitute House Bill 1579]

CHINOOK SALMON ABUNDANCE--VARIOUS PROVISIONS

AN ACT Relating to implementing recommendations of the southern resident killer whale task force related to increasing chinook abundance; amending RCW 77.32.010 and 43.21B.110; adding a new section to chapter 77.08 RCW; adding new sections to chapter 77.55 RCW; adding a new section to chapter 43.23 RCW; creating a new section; repealing RCW 77.55.141 and 77.55.291; prescribing penalties; 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 the population of southern resident killer whales has declined in recent years and currently stands at a thirty-year low of seventy-four animals.

(2) The governor convened the southern resident killer whale task force after the 2018 legislative session to study and identify actions that could be taken to help sustain and recover this important species. In the course of its work, the task force found that chinook salmon compose the largest portion of the whales' diet, and are therefore critical to the recovery of the species. Further, several runs of chinook salmon in Washington state are listed under the federal endangered species act, making chinook recovery all the more urgent.

(3) The task force identified four overarching southern resident killer whale recovery goals and adopted several recommendations for specific actions under each goal. Goal one identified by the task force is to increase chinook abundance, and actions under that goal relate to habitat protection, protection of chinook prey, such as forage fish, and reducing impacts of nonnative chinook predators.

(4) To address the need identified by the task force to increase chinook abundance, the legislature intends to take initial, important steps consistent with recommendations made by the governor's southern resident killer whale task force.

NEW SECTION. Sec. 2. A new section is added to chapter 77.08 RCW to read as follows:

The commission shall adopt rules to liberalize bag limits for bass, walleye, and channel catfish in all anadromous waters of the state in order to reduce the predation risk to salmon smolts.

Sec. 3. RCW 77.32.010 and 2014 c 48 s 26 are each amended to read as follows:

(1) Except as otherwise provided in this chapter or department rule, a recreational license issued by the director is required to hunt, fish, or take wildlife or seaweed. A recreational fishing or shellfish license is not required for carp, freshwater smelt, and crawfish, and a hunting license is not required for bullfrogs.

(2) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or 79A.80.040 is required to park or operate a motor vehicle on a recreation site or lands, as defined in RCW 79A.80.010.

(3) The commission may, by rule, indicate that a fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirements in subsection (1) of this section on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods, and that a Colville Tribes tribal member identification card shall satisfy the license requirements in subsection (1) of this section on all waters of Lake Rufus Woods.

NEW SECTION. Sec. 4. A new section is added to chapter 77.55 RCW to read as follows:

(1) A person proposing construction or other work landward of the ordinary high water line that will use, divert, obstruct, or change the natural flow or bed of state waters shall submit a permit application to the department. However, if a person is unsure about whether the work requires a permit, they may request a

preapplication determination from the department. The department must evaluate the proposed work and determine if the work is a hydraulic project and, if so, whether a permit from the department is required to ensure adequate protection of fish life.

(2) The preapplication determination request must be submitted through the department's online permitting system and must contain:

- (a) A description of the proposed project;
- (b) A map showing the location of the project site; and
- (c) Preliminary plans and specifications of the proposed construction or work, if available.

(3) The department shall provide tribes and local governments a seven calendar day review and comment period. The department shall consider all applicable written comments received before issuing a determination.

(4) The department shall issue a written determination, including the rationale for the decision, within twenty-one calendar days of receiving the request.

(5) Determinations made according to the provisions of this section are not subject to the requirements of chapter 43.21C RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 77.55 RCW to read as follows:

(1) When the department determines that a violation of this chapter, or of any of the rules that implement this chapter, has occurred or is about to occur, it shall first attempt to achieve voluntary compliance. The department shall offer information and technical assistance to the project proponent, identifying one or more means to accomplish the project proponent's purposes within the framework of the law. The department shall provide a reasonable timeline to achieve voluntary compliance that takes into consideration factors specific to the violation, such as the complexity of the hydraulic project, the actual or potential harm to fish life or fish habitat, and the environmental conditions at the time.

(2) If a person violates this chapter, or any of the rules that implement this chapter, or deviates from a permit, the department may issue a notice of correction in accordance with chapter 43.05 RCW, a notice of violation in accordance with chapter 43.05 RCW, a stop work order, a notice to comply, or a notice of civil penalty as authorized by law and subject to chapter 43.05 RCW and RCW 34.05.110.

(3) For purposes of this section, the term "project proponent" means a person who has applied for a hydraulic project approval, a person identified as an authorized agent on an application for a hydraulic project approval, a person who has obtained a hydraulic project approval, or a person who undertakes a hydraulic project without a hydraulic project approval.

(4) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

NEW SECTION. Sec. 6. A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may serve upon a project proponent a stop work order, which is a final order of the department, if:

(a) There is any severe violation of this chapter or of the rules implementing this chapter or there is a deviation from the hydraulic project approval that may cause significant harm to fish life; and

(b) Immediate action is necessary to prevent continuation of or to avoid more than minor harm to fish life or fish habitat.

(2)(a) The stop work order must set forth:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of this chapter or the rules that implement this chapter;

(ii) A statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance;

(iv) Notice of the means to contact any technical assistance services provided by the department or others;

(v) Notice of when, where, and to whom the request to extend the time to achieve compliance for good cause may be filed with the department; and

(vi) The right to an appeal.

(b) A stop work order may require that any project proponent stop all work connected with the violation until corrective action is taken. A stop work order may also require that any project proponent take corrective action to prevent, correct, or compensate for adverse impacts to fish life and fish habitat.

(c) A stop work order must be authorized by senior or executive department personnel. The department shall initiate rule making to identify the appropriate level of senior and executive level staff approval for these actions based on the level of financial effect on the violator and the scope and scale of the impact to fish life and habitat.

(3) Within five business days of issuing the stop work order, the department shall mail a copy of the stop work order to the last known address of any project proponent, to the last known address of the owner of the land on which the hydraulic project is located, and to the local jurisdiction in which the hydraulic project is located. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the stop work order.

(4) Issuance of a stop work order may be informally appealed by a project proponent who was served with the stop work order or who received a copy of the stop work order from the department, or by the owner of the land on which the hydraulic project is located, to the department within thirty days from the date of receipt of the stop work order. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A stop work order that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(5) The project proponent who was served with the stop work order or who received a copy of the stop work order from the department, or the owner of the land on which the hydraulic project is located, may commence an appeal to the board within thirty days from the date of receipt of the stop work order. If such an appeal is commenced, the proceeding is an adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW. The recipient of the stop work order must comply with the order of the department immediately upon being

served, but the board may stay, modify, or discontinue the order, upon motion, under such conditions as the board may impose.

(6) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

(7) For the purposes of this section, "project proponent" has the same meaning as defined in section 5(3) of this act.

NEW SECTION. **Sec. 7.** A new section is added to chapter 77.55 RCW to read as follows:

(1)(a) If a violation of this chapter or of the rules implementing this chapter, a deviation from the hydraulic project approval, damage to fish life or fish habitat, or potential damage to fish life or fish habitat, has occurred and the department determines that a stop work order is unnecessary, the department may issue and serve upon a project proponent a notice to comply, which must clearly set forth:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of this chapter or the rules that implement this chapter;

(ii) A statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance to be achieved;

(iv) Notice of the means to contact any technical assistance services provided by the department or others;

(v) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department; and

(vi) The right to an appeal.

(b) The notice to comply may require that any project proponent take corrective action to prevent, correct, or compensate for adverse impacts to fish life or fish habitat.

(2) Within five business days of issuing the notice to comply, the department shall mail a copy of the notice to comply to the last known address of any project proponent, to the last known address of the owner of the land on which the hydraulic project is located, and to the local jurisdiction in which the hydraulic project is located. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the notice to comply.

(3) Issuance of a notice to comply may be informally appealed by a project proponent who was served with the notice to comply or who received a copy of the notice to comply from the department, or by the owner of the land on which the hydraulic project is located, to the department within thirty days from the date of receipt of the notice to comply. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A notice to comply that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(4) The project proponent who was served with the notice to comply, the project proponent who received a copy of the notice to comply from the department, or the owner of the land on which the hydraulic project is located may commence an appeal to the board within thirty days from the date of receipt of the notice to comply. If such an appeal is commenced, the proceeding is an

adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW. The recipient of the notice to comply must comply with the notice to comply immediately upon being served, but the board may stay, modify, or discontinue the notice to comply, upon motion, under such conditions as the board may impose.

(5) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

(6) For the purposes of this section, "project proponent" has the same meaning as defined in section 5(3) of this act.

***NEW SECTION. Sec. 8.** A new section is added to chapter 77.55 RCW to read as follows:

(1)(a) If section 13 of this act is enacted into law by June 30, 2019, the department may levy civil penalties of up to ten thousand dollars for every violation of this chapter or of the rules that implement this chapter. If section 13 of this act is not enacted into law by June 30, 2019, the department may levy civil penalties of up to one hundred dollars for every violation of this chapter or of the rules that implement this chapter. Each and every violation is a separate and distinct civil offense.

(b) Penalties must be authorized by senior or executive department personnel. The department shall initiate rule making to identify the appropriate level of senior and executive level staff approval for these actions based on the level of financial effect on the violator and the scope and scale of the impact to fish life and habitat.

(2) The penalty provided must be imposed by notice in writing by the department, provided either by certified mail or by personal service, to the person incurring the penalty and to the local jurisdiction in which the hydraulic project is located, describing the violation. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the notice of penalty. The civil penalty notice must set forth:

- (a) The basis for the penalty;
- (b) The amount of the penalty; and
- (c) The right of the person incurring the penalty to appeal the civil penalty.

(3)(a) Except as provided in (b) of this subsection, any person incurring any penalty under this chapter may appeal the penalty to the board pursuant to chapter 34.05 RCW. Appeals must be filed within thirty days from the date of receipt of the notice of civil penalty in accordance with RCW 43.21B.230.

(b) Issuance of a civil penalty may be informally appealed by the person incurring the penalty to the department within thirty days from the date of receipt of the notice of civil penalty. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A civil penalty that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(4) The penalty imposed becomes due and payable thirty days after receipt of a notice imposing the penalty unless an appeal is filed. Whenever an appeal of any penalty incurred under this chapter is filed, the penalty becomes due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. When the penalty becomes

past due, it is also subject to interest at the rate allowed by RCW 43.17.240 for debts owed to the state.

(5) If the amount of any penalty is not paid within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of the county in which such a violation occurred, to recover the penalty. In all such actions, the rules of civil procedures and the rules of evidence are the same as in an ordinary civil action. The department is also entitled to recover reasonable attorneys' fees and costs incurred in connection with the penalty recovered under this section. All civil penalties received or recovered by state agency action for violations as prescribed in subsection (1) of this section must be deposited into the state's general fund. The department is authorized to retain any attorneys' fees and costs it may be awarded in connection with an action brought to recover a civil penalty issued pursuant to this section.

(6) The department shall adopt by rule a penalty schedule to be effective by January 1, 2020. The penalty schedule must be developed in consideration of the following:

- (a) Previous violation history;
- (b) Severity of the impact on fish life and fish habitat;
- (c) Whether the violation of this chapter or of its rules was intentional;
- (d) Cooperation with the department;
- (e) Reparability of any adverse effects resulting from the violation; and
- (f) The extent to which a penalty to be imposed on a person for a violation committed by another should be reduced if the person was unaware of the violation and has not received a substantial economic benefit from the violation.

(7) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

**Sec. 8 was partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 9. A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may apply for an administrative inspection warrant in either Thurston county superior court or the superior court in the county in which the hydraulic project is located. The court may issue an administrative inspection warrant where:

- (a) Department personnel need to inspect the hydraulic project site to ensure compliance with this chapter or with rules adopted to implement this chapter; or
- (b) Department personnel have probable cause to believe that a violation of this chapter or of the rules that implement this chapter is occurring or has occurred.

(2) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

NEW SECTION. Sec. 10. A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may disapprove an application for hydraulic project approval submitted by a person who has failed to comply with a final order issued pursuant to section 6 or 7 of this act or who has failed to pay civil

penalties issued pursuant to section 8 of this act. Applications may be disapproved for up to one year from the issuance of a notice of intent to disapprove applications under this section, or until all outstanding civil penalties are paid and all outstanding notices to comply and stop work orders are complied with, whichever is longer.

(2) The department shall provide written notice of its intent to disapprove an application under this section to the applicant and to any authorized agent or landowner identified in the application.

(3) The disapproval period runs from thirty days following the date of actual notice of intent or when all administrative and judicial appeals, if any, have been exhausted.

(4) Any person provided the notice may seek review from the board by filing a request for review within thirty days of the date of the notice of intent to disapprove applications.

NEW SECTION. Sec. 11. A new section is added to chapter 77.55 RCW to read as follows:

The remedies under this chapter are not exclusive and do not limit or abrogate any other civil or criminal penalty, remedy, or right available in law, equity, or statute.

Sec. 12. RCW 43.21B.110 and 2013 c 291 s 34 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 70.94 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, 70.94.431, 70.105.080, 70.107.050, 76.09.170, (~~77.55.291~~) section 8 of this act, 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, 70.94.211, 70.94.332, 70.105.095, 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 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(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 70.95.205.

(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.

(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 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, 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. 13.** A new section is added to chapter 43.23 RCW to read as follows:

(1) The state conservation commission shall convene and facilitate the departments of ecology, agriculture, fish and wildlife, and natural resources, and the state conservation commission to work together cooperatively, efficiently, and productively on the expeditious construction of three demonstration projects. The legislature expects that the joint and contemporaneous participation of all these state agencies will expedite the permitting of these demonstration projects. The legislature further intends that the collaborative process that the stakeholder group creates, including local stakeholders among others, will be used as a model for river management throughout the state.

(2) *The floodplain management strategies developed in the process in this section must address multiple benefits including: Reducing flood hazard to public infrastructure and other land uses caused by sediment accumulation or for other causes; improving fish and wildlife habitat; sustaining viable agriculture; and public access.*

(3) *The state conservation commission and the departments of agriculture, natural resources, fish and wildlife, and ecology must jointly identify and assess three demonstration projects that test the effectiveness and costs of river management by using various management strategies and techniques as applied to accomplish the following goals:*

(a) *Protection of agricultural lands;*

(b) *Restoration or enhancement of fish runs; and*

(c) *Protection of public infrastructure and recreational access.*

(4)(a) *The state conservation commission must convene and facilitate a stakeholder group consisting of the departments of agriculture, natural resources, fish and wildlife, and ecology, and the state conservation commission, local and statewide agricultural organizations and conservation districts, land conservation organizations, and local governments with interest and experience in floodplain management techniques. The stakeholder group must develop and assess three demonstration projects, one located in Whatcom county, one located in Snohomish county, and one located in Grays Harbor county. The departments must also seek the participation and the views of the federally recognized tribes that may be affected by each pilot project.*

(b) *The disposition of any gravel resources removed as a result of these pilot projects that are owned by the state must be consistent with chapter 79.140 RCW, otherwise they must be: (i) Used at the departments' discretion in projects related to fish programs in the local area of the project or by property owners adjacent to the project; (ii) made available to a local tribe for its use; or (iii) sold and the proceeds applied to funding the demonstration projects.*

(5) *At a minimum, the pilot projects must examine the following management strategies and techniques:*

(a) *Setting back levees and other measures to accommodate high flow with reduced risk to property, while providing space for river processes that are vital to the creation of fish habitat;*

(b) *Providing deeper, cooler holes for fish life;*

(c) *Removing excess sediment and gravel that causes diversion of water and erosion of river banks and farmland;*

(d) *Providing off-channels for habitat as refuge during high flows;*

(e) *Ensuring that any management activities leave sufficient gravel and sediment for fish spawning and rearing;*

(f) *Providing stable river banks that will allow for long-term growth of riparian enhancement efforts, such as planting shade trees and hedgerows;*

(g) *Protecting existing mature treed riparian zones that cool the waters;*

(h) *Restoring previously existing bank contours that protect the land from erosion caused by more intense and more frequent flooding; and*

(i) *Developing management practices that reduce the amount of gravel, sediment, and woody debris deposited into farm fields.*

(6) *By December 31, 2020, the state conservation commission must coordinate the development of a report to the legislative committees with*

oversight of agriculture, water, rural economic development, ecology, fish and wildlife, and natural resources. The report should include the input of all state agencies, tribes, local entities, and stakeholders participating in, or commenting on, the process identified in this section. The report must include, but not be limited to, the following elements: (a) Their progress toward setting benchmarks and meeting the stakeholder group's timetable; (b) any decisions made in assessing the projects; and (c) agency recommendations for funding of the projects from federal grants, federal loans, state grants and loans, and private donations, or if other funding sources are not available or complete, submitting the three projects for consideration in the biennial capital budget request to the governor and the legislature. The departments must report annually thereafter by December 31st of each year.

(7) The stakeholder group must be staffed jointly by the departments.

(8) Within amounts appropriated in the omnibus operating appropriations act, the state conservation commission, the department of ecology, the department of agriculture, the department of fish and wildlife, and the department of natural resources shall implement all requirements in this section.

(9) This section expires June 30, 2030.

**Sec. 13 was vetoed. See message at end of chapter.*

NEW SECTION. **Sec. 14.** The following acts or parts of acts are each repealed:

(1) RCW 77.55.141 (Marine beach front protective bulkheads or rockwalls) and 2010 c 210 s 28, 2005 c 146 s 501, & 1991 c 279 s 1; and

(2) RCW 77.55.291 (Civil penalty) and 2010 c 210 s 31, 2005 c 146 s 701, 2000 c 107 s 19, 1993 sp.s. c 2 s 35, 1988 c 36 s 35, & 1986 c 173 s 6.

Passed by the House April 18, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor May 8, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 13 and 8(1)(a), Second Substitute House Bill No. 1579 entitled:

"AN ACT Relating to implementing recommendations of the southern resident killer whale task force related to increasing chinook abundance."

This bill implements recommendations of the Southern Resident orca task force (task force) related to increasing chinook abundance.

Current laws and protections are not sufficient. Salmon populations continue to decline putting our beloved orca at risk.

This bill provides the long needed tools to protect salmon habitat when development permits are issued along our marine and freshwater shoreline. Strengthening the hydraulic code will help ensure development projects that affect salmon and their habitats do no harm.

However, I am vetoing Section 13, which would require certain state agencies and local governments to identify river management demonstration projects in Whatcom, Snohomish, and Grays Harbor counties, because it is not a recommendation of the task force. As such, it is outside of both the title and scope of the bill, in violation of Article 2, Sections 19 and 38 of our constitution. Section 13 is

unrelated, unnecessary and an unfortunate addition to this important bill about salmon and orca habitat and recovery.

In addition, I am also vetoing Section 8(1)(a), which establishes maximum civil penalty amounts for violations of Chapter 77.55 RCW (Construction Projects in State Waters). Consistent with the task force's recommendations, the original bill established a maximum civil penalty of up to ten thousand dollars for each violation. When the Legislature amended the bill to add Section 13, it simultaneously amended Section 8 and tied the original civil penalty amount to passage of Section 13. It did so by reducing the maximum civil penalty to "up to one hundred dollars" if Section 13 is not enacted by June 30, 2019. By making the original civil penalty amount contingent on passage of an unconstitutional section of the bill, the Legislature further compounded the constitutional violation. In addition, by structuring the contingency language within a subsection of Section 8, the Legislature intentionally attempted to circumvent and impede my veto authority by entangling an unrelated and unconstitutional provision within a recommendation of the task force. In vetoing this subsection, I direct the department to continue to use its authority to secure the effect of the statute, to establish a maximum civil penalty not to exceed the penalty amount established in the original bill, and to use its rulemaking authority to support these efforts as needed.

I understand the concerns of landowners who are living and working in floodplains and the need for better approaches to protecting their property. We also need to find balance to provide habitat for salmon to spawn and grow if we want to save our orcas. We already have important programs in place to address ecosystem based river management. Watershed solutions should come from local efforts and I encourage people living in these communities to work collaboratively, with their neighbors, local governments, salmon recovery and agricultural preservation organizations to fund effective local solutions.

For these reasons I have vetoed Sections 13 and 8(1)(a) of Second Substitute House Bill No. 1579.

With the exception of Sections 13 and 8(1)(a), Second Substitute House Bill No. 1579 is approved."

CHAPTER 291

[Second Substitute Senate Bill 5577]

SOUTHERN RESIDENT ORCA WHALES--PROTECTION FROM VESSELS

AN ACT Relating to the protection of southern resident orca whales from vessels; amending RCW 77.15.740 and 43.384.050; adding new sections to chapter 77.65 RCW; adding a new section to chapter 77.15 RCW; prescribing penalties; and declaring an emergency.

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

Sec. 1. RCW 77.15.740 and 2014 c 48 s 22 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it is unlawful for a person to:

(a) Cause a vessel or other object to approach, in any manner, within ~~((two))~~ three hundred yards of a southern resident orca whale;

(b) Position a vessel to be in the path of a southern resident orca whale at any point located within four hundred yards of the whale. This includes intercepting a southern resident orca whale by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale at any point located within four hundred yards of the whale;

(c) Position a vessel behind a southern resident orca whale at any point located within four hundred yards;

(d) Fail to disengage the transmission of a vessel that is within ~~((two))~~ three hundred yards of a southern resident orca whale; ~~((or~~

~~(4))~~ (e) Cause a vessel or other object to exceed a speed greater than seven knots over ground at any point located within one-half nautical mile (one thousand thirteen yards) of a southern resident orca whale; or

(f) Feed a southern resident orca whale.

(2) A person is exempt from subsection (1) of this section if that person is:

(a) Operating a federal government vessel in the course of (~~his or her~~) official duties, or operating a state, tribal, or local government vessel when engaged in official duties involving law enforcement, search and rescue, or public safety;

(b) Operating a vessel in conjunction with a vessel traffic service established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service measure of direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats;

(c) Engaging in an activity, including scientific research, pursuant to a permit or other authorization from the national marine fisheries service and the department;

(d) Lawfully engaging in a treaty Indian or commercial fishery that is actively setting, retrieving, or closely tending fishing gear. Commercial fishing vessels in transit are not exempt from subsection (1) of this section;

(e) Conducting vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment, including when necessary for overall safety of navigation and to comply with state and federal navigation requirements; or

(f) Engaging in rescue or clean-up efforts of a beached southern resident orca whale overseen, coordinated, or authorized by a volunteer stranding network.

(3) For the purpose of this section, "vessel" includes aircraft while on the surface of the water, and every description of watercraft on the water that is used or capable of being used as a means of transportation on the water. However, "vessel" does not include inner tubes, air mattresses, sailboards, and small rafts, or flotation devices or toys customarily used by swimmers.

(4)(a) A violation of this section is a natural resource infraction punishable under chapter 7.84 RCW and carries a fine of five hundred dollars, not including statutory assessments added pursuant to RCW 3.62.090.

(b) A person who qualifies for an exemption under subsection (2) of this section may offer that exemption as an affirmative defense, which that person must prove by a preponderance of the evidence.

(5) The enforcement actions required of the department from this section are subject to the availability of amounts appropriated for this specific purpose.

NEW SECTION. Sec. 2. A new section is added to chapter 77.65 RCW to read as follows:

(1) A commercial whale watching license is required for commercial whale watching operators. The annual fee is two hundred dollars in addition to the annual application fee of seventy-five dollars.

(2) The annual fees for a commercial whale watching license as described in subsection (1) of this section must include fees for each motorized or sailing vessel or vessels as follows:

(a) One to twenty-four passengers, three hundred twenty-five dollars;

(b) Twenty-five to fifty passengers, five hundred twenty-five dollars;

(c) Fifty-one to one hundred passengers, eight hundred twenty-five dollars;
 (d) One hundred one to one hundred fifty passengers, one thousand eight hundred twenty-five dollars; and

(e) One hundred fifty-one passengers or greater, two thousand dollars.

(3) The annual fees for a commercial whale watching license as described in subsection (1) of this section must include fees for each kayak as follows:

(a) One to ten kayaks, one hundred twenty-five dollars;

(b) Eleven to twenty kayaks, two hundred twenty-five dollars;

(c) Twenty-one to thirty kayaks, four hundred twenty-five dollars; and

(d) Thirty-one or more kayaks, six hundred twenty-five dollars.

(4) The holder of a commercial whale watching license for motorized or sailing vessels required under subsection (2) of this section may substitute the vessel designated on the license, or designate a vessel if none has previously been designated, if the license holder:

(a) Surrenders the previously issued license to the department;

(b) Submits to the department an application that identifies the currently designated vessel, the vessel proposed to be designated, and any other information required by the department; and

(c) Pays to the department a fee of thirty-five dollars and an application fee of one hundred five dollars.

(5) Unless the license holder owns all vessels identified on the application described in subsection (4)(b) of this section, the department may not change the vessel designation on the license more than once per calendar year.

(6) A person who is not the license holder may operate a motorized or sailing commercial whale watching vessel designated on the license only if:

(a) The person holds an alternate operator license issued by the director; and

(b) The person is designated as an alternate operator on the underlying commercial whale watching license.

(7) No individual may hold more than one alternate operator license. An individual who holds an alternate operator license may be designated as an alternate operator on an unlimited number of commercial whale watching licenses.

(8) The annual fee for an alternate operator license is two hundred dollars in addition to an annual application fee of seventy-five dollars.

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

(a) "Commercial whale watching" means the act of taking, or offering to take, passengers aboard a vessel in order to view marine mammals in their natural habitat for a fee.

(b) "Commercial whale watching operators" includes commercial vessels and kayak rentals that are engaged in the business of whale watching.

(c) "Commercial whale watching vessel" means any vessel that is being used as a means of transportation for individuals to engage in commercial whale watching.

NEW SECTION. Sec. 3. A new section is added to chapter 77.65 RCW to read as follows:

(1) The department must adopt rules for holders of a commercial whale watching license established in section 2 of this act for the viewing of southern resident orca whales for the inland waters of Washington by January 1, 2021.

The rules must be designed to reduce the daily and cumulative impacts on southern resident orca whales and consider the economic viability of license holders. The department shall at a minimum consider protections for southern resident orca whales by establishing limitations on:

(a) The number of commercial whale watching operators that may view southern resident orca whales at one time;

(b) The number of days and hours that commercial whale watching operators can operate;

(c) The duration spent in the vicinity of southern resident orca whales; and

(d) The areas in which commercial whale watching operators may operate.

(2) The department may phase in requirements, but must adopt rules to implement this section. The department may consider the use of an automatic identification system to enable effective monitoring and compliance.

(3) The department may phase in requirements, but must adopt rules pursuant to chapter 34.05 RCW to implement this section including public, industry, and interested party involvement.

(4) Before January 1, 2021, the department shall convene an independent panel of scientists to review the current body of best available science regarding impacts to southern resident orcas by small vessels and commercial whale watching due to disturbance and noise. The department must use the best available science in the establishment of the southern resident orca whale watching rules and continue to adaptively manage the program using the most current and best available science.

(5) The department shall complete an analysis and report to the governor and the legislature on the effectiveness of and any recommendations for changes to the whale watching rules, license fee structure, and approach distance rules by November 30, 2022, and every two years thereafter until 2026. This report must be in compliance with RCW 43.01.036.

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

(a) "Commercial whale watching" has the same meaning as defined in section 2 of this act.

(b) "Commercial whale watching operators" has the same meaning as defined in section 2 of this act.

(c) "Inland waters of Washington" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on July 1, 2007.

NEW SECTION. Sec. 4. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of unlawfully engaging in commercial whale watching in the second degree if the person:

(a) Does not have and possess all licenses and permits required under this title; or

(b) Violates any department rule regarding the operation of a commercial whale watching vessel near a southern resident orca whale.

(2) A person is guilty of engaging in commercial whale watching in the first degree if the person commits the act described in subsection (1) of this section and the violation occurs within one year of the date of a prior conviction under this section.

(3)(a) Unlawful commercial whale watching in the second degree is a misdemeanor.

(b) Unlawful commercial whale watching in the first degree is a gross misdemeanor. Upon conviction, the director shall deny applications submitted by the person for a commercial whale watching license or alternate operator license for two years from the date of conviction.

Sec. 5. RCW 43.384.050 and 2018 c 275 s 6 are each amended to read as follows:

(1) From amounts appropriated to the department for the authority and from other moneys available to it, the authority may incur expenditures for any purpose specifically authorized by this chapter including:

(a) Entering into a contract for a multiple year statewide tourism marketing plan with a statewide nonprofit organization existing on June 7, 2018, whose sole purpose is marketing Washington to tourists. The marketing plan must include, but is not limited to, focuses on rural tourism-dependent counties, natural wonders and outdoor recreation opportunities of the state, including sustainable whale watching, attraction of international tourists, identification of local offerings for tourists, and assistance for tourism areas adversely impacted by natural disasters. In the event that no such organization exists on June 7, 2018, or the initial contractor ceases to exist, the authority may determine criteria for a contractor to carry out a statewide marketing program;

(b) Contracting for the evaluation of the impact of the statewide tourism marketing program; and

(c) Paying for administrative expenses of the authority, which may not exceed two percent of the state portion of funds collected in any fiscal year.

(2) All nonstate moneys received by the authority under RCW 43.384.060 or otherwise provided to the authority for purposes of matching funding must be deposited in the authority's private local account created under RCW 43.384.020(4) and are held in trust for uses authorized solely by this chapter.

(3) "Sustainable whale watching" means an experience that includes whale watching from land or aboard a vessel that reduces the impact on whales, provides a recreational and educational experience, and motivates participants to care about marine mammals, the sea, and marine conservation.

NEW SECTION. Sec. 6. Section 1 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 immediately.

Passed by the Senate April 22, 2019.

Passed by the House April 15, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 292

[Substitute Senate Bill 5135]

TOXIC POLLUTION

AN ACT Relating to preventing toxic pollution that affects public health or the environment; amending RCW 70.240.040, 43.21B.110, and 34.05.272; adding a new chapter to Title 70 RCW; and prescribing penalties.

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) "Consumer product" means any item, including any component parts and packaging, sold for residential or commercial use.

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

(3) "Director" means the director of the department.

(4) "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product or is an importer or domestic distributor of a product sold or offered for sale in or into the state.

(5) "Organohalogen" means a class of chemicals that includes any chemical containing one or more halogen elements bonded to carbon.

(6) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(7) "Phenolic compounds" means alkylphenol ethoxylates and bisphenols.

(8) "Phthalates" means synthetic chemical esters of phthalic acid.

(9) "Polychlorinated biphenyls" or "PCBs" means chemical forms that consist of two benzene rings joined together and containing one to ten chlorine atoms attached to the benzene rings.

(10) "Priority chemical" means a chemical or chemical class used as, used in, or put in a consumer product including:

(a) Perfluoroalkyl and polyfluoroalkyl substances;

(b) Phthalates;

(c) Organohalogen flame retardants;

(d) Flame retardants, as identified by the department under chapter 70.240 RCW;

(e) Phenolic compounds;

(f) Polychlorinated biphenyls; or

(g) A chemical identified by the department as a priority chemical under section 2 of this act.

(11) "Safer alternative" means an alternative that is less hazardous to humans or the environment than the existing chemical or chemical process. A safer alternative to a particular chemical may include a chemical substitute or a change in materials or design that eliminates the need for a chemical alternative.

(12) "Sensitive population" means a category of people that is identified by the department that may be or is disproportionately or more severely affected by priority chemicals, such as:

(a) Men and women of childbearing age;

(b) Infants and children;

(c) Pregnant women;

(d) Communities that are highly impacted by toxic chemicals;

- (e) Persons with occupational exposure; and
- (f) The elderly.

(13) "Sensitive species" means a species or grouping of animals that is identified by the department that may be or is disproportionately or more severely affected by priority chemicals, such as:

- (a) Southern resident killer whales;
- (b) Salmon; and
- (c) Forage fish.

(14) "Electronic product" includes personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen that are used to access interactive software, and the peripherals associated with such products.

(15) "Inaccessible electronic component" means a part or component of an electronic product that is located inside and entirely enclosed within another material and is not capable of coming out of the product or being accessed during any reasonably foreseeable use or abuse of the product.

NEW SECTION. Sec. 2. Every five years, and consistent with the timeline established in section 5 of this act, the department, in consultation with the department of health, must report to the appropriate committees of the legislature its decision to designate at least five priority chemicals that meet at least one of the following:

(1) The chemical or a member of a class of chemicals are identified by the department as a:

(a) High priority chemical of high concern for children under chapter 70.240 RCW; or

(b) Persistent, bioaccumulative toxin under chapter 70.105 RCW;

(2) The chemical or members of a class of chemicals are regulated:

(a) In consumer products under chapter 70.240, 70.76, 70.95G, 70.280, 70.285, 70.95M, or 70.75A RCW; or

(b) As a hazardous substance under chapter 70.105 or 70.105D RCW; or

(3) The department determines the chemical or members of a class of chemicals are a concern for sensitive populations and sensitive species after considering the following factors:

(a) A chemical's or members of a class of chemicals' hazard traits or environmental or toxicological endpoints;

(b) A chemical's or members of a class of chemicals' aggregate effects;

(c) A chemical's or members of a class of chemicals' cumulative effects with other chemicals with the same or similar hazard traits or environmental or toxicological endpoints;

(d) A chemical's or members of a class of chemicals' environmental fate;

(e) The potential for a chemical or members of a class of chemicals to degrade, form reaction products, or metabolize into another chemical or a chemical that exhibits one or more hazard traits or environmental or toxicological endpoints, or both;

(f) The potential for the chemical or class of chemicals to contribute to or cause adverse health or environmental impacts;

(g) The chemical's or class of chemicals' potential impact on sensitive populations, sensitive species, or environmentally sensitive habitats;

(h) Potential exposures to the chemical or members of a class of chemicals based on:

(i) Reliable information regarding potential exposures to the chemical or members of a class of chemicals; and

(ii) Reliable information demonstrating occurrence, or potential occurrence, of multiple exposures to the chemical or members of a class of chemicals.

NEW SECTION. Sec. 3. (1) Every five years, and consistent with the timeline established in section 5 of this act, the department, in consultation with the department of health, shall identify priority consumer products that are a significant source of or use of priority chemicals. The department must submit a report to the appropriate committees of the legislature at the time that it identifies a priority consumer product.

(2) When identifying priority consumer products under this section, the department must consider, at a minimum, the following criteria:

(a) The estimated volume of a priority chemical or priority chemicals added to, used in, or present in the consumer product;

(b) The estimated volume or number of units of the consumer product sold or present in the state;

(c) The potential for exposure to priority chemicals by sensitive populations or sensitive species when the consumer product is used, disposed of, or has decomposed;

(d) The potential for priority chemicals to be found in the outdoor environment, with priority given to surface water, groundwater, marine waters, sediments, and other ecologically sensitive areas, when the consumer product is used, disposed of, or has decomposed;

(e) If another state or nation has identified or taken regulatory action to restrict or otherwise regulate the priority chemical in the consumer product;

(f) The availability and feasibility of safer alternatives; and

(g) Whether the department has already identified the consumer product in a chemical action plan completed under chapter 70.105 RCW as a source of a priority chemical or other reports or information gathered under chapter 70.240, 70.76, 70.95G, 70.280, 70.285, 70.95M, or 70.75A RCW.

(3) The department is not required to give equal weight to each of the criteria in subsection (2)(a) through (g) of this section when identifying priority consumer products that use or are a significant source of priority chemicals.

(4) To assist with identifying priority consumer products under this section and making determinations as authorized under section 4 of this act, the department may request a manufacturer to submit a notice to the department that contains the information specified in RCW 70.240.040 (1) through (6) or other information relevant to subsection (2)(a) through (d) of this section. The manufacturer must provide the notice to the department no later than six months after receipt of such a demand by the department.

(5)(a) Except as provided in (b) of this subsection, the department may not identify the following as priority consumer products under this section:

(i) Plastic shipping pallets manufactured prior to 2012;

(ii) Food or beverages;

(iii) Tobacco products;

(iv) Drug or biological products regulated by the United States food and drug administration;

(v) Finished products certified or regulated by the federal aviation administration or the department of defense, or both, when used in a manner that was certified or regulated by such agencies, including parts, materials, and processes when used to manufacture or maintain such regulated or certified finished products;

(vi) Motorized vehicles, including on and off-highway vehicles, such as all-terrain vehicles, motorcycles, side-by-side vehicles, farm equipment, and personal assistive mobility devices; and

(vii) Chemical products used to produce an agricultural commodity, as defined in RCW 17.21.020.

(b) The department may identify the packaging of products listed in (a) of this subsection as priority consumer products.

(6) For an electronic product identified by the department as a priority consumer product under this section, the department may not make a regulatory determination under section 4 of this act to restrict or require the disclosure of a priority chemical in an inaccessible electronic component of the electronic product.

NEW SECTION. Sec. 4. (1) Every five years, and consistent with the timeline established in section 5 of this act, the department, in consultation with the department of health, must determine regulatory actions to increase transparency and to reduce the use of priority chemicals in priority consumer products. The department must submit a report to the appropriate committees of the legislature at the time that it determines regulatory actions. The department may:

(a) Determine that no regulatory action is currently required;

(b) Require a manufacturer to provide notice of the use of a priority chemical or class of priority chemicals consistent with RCW 70.240.040; or

(c) Restrict or prohibit the manufacture, wholesale, distribution, sale, retail sale, or use, or any combination thereof, of a priority chemical or class of priority chemicals in a consumer product.

(2)(a) The department may order a manufacturer to submit information consistent with section 3(4) of this act.

(b) The department may require a manufacturer to provide:

(i) A list of products containing priority chemicals;

(ii) Product ingredients;

(iii) Information regarding exposure and chemical hazard; and

(iv) A description of the amount and the function of the high priority chemical in the product.

(3) The department may restrict or prohibit a priority chemical or members of a class of priority chemicals in a priority consumer product when it determines:

(a) Safer alternatives are feasible and available; and

(b)(i) The restriction will reduce a significant source of or use of a priority chemical; or

(ii) The restriction is necessary to protect the health of sensitive populations or sensitive species.

(4) When determining regulatory actions under this section, the department may consider, in addition to the criteria pertaining to the selection of priority

chemicals and priority consumer products that are specified in sections 2 and 3 of this act, whether:

(a) The priority chemical or members of a class of priority chemicals are functionally necessary in the priority consumer product; and

(b) A restriction would be consistent with regulatory actions taken by another state or nation on a priority chemical or members of a class of priority chemicals in a product.

(5) A restriction or prohibition on a priority chemical in a consumer product may include exemptions or exceptions, including exemptions to address existing stock of a product in commerce at the time that a restriction takes effect.

NEW SECTION. **Sec. 5.** (1)(a) By June 1, 2020, and consistent with section 3 of this act, the department shall identify priority consumer products that are a significant source of or use of priority chemicals specified in section 1(10) (a) through (f) of this act.

(b) By June 1, 2022, and consistent with section 4 of this act, the department must determine regulatory actions regarding the priority chemicals and priority consumer products identified in (a) of this subsection.

(c) By June 1, 2023, the department must adopt rules to implement regulatory actions determined under (b) of this subsection.

(2)(a) By June 1, 2024, and every five years thereafter, the department shall select at least five priority chemicals specified in section 1(10) (a) through (g) of this act that are identified consistent with section 2 of this act.

(b) By June 1, 2025, and every five years thereafter, the department must identify priority consumer products that contain any new priority chemicals after notifying the appropriate committees of the legislature, consistent with section 3 of this act.

(c) By June 1, 2027, and every five years thereafter, the department must determine regulatory actions for any priority chemicals in priority consumer products identified under (b) of this subsection, consistent with section 4 of this act.

(d) By June 1, 2028, and every five years thereafter, the department must adopt rules to implement regulatory actions identified under (c) of this subsection.

(3)(a) The designation of priority chemicals by the department does not take effect until the adjournment of the regular legislative session immediately following the identification of chemicals, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the list of priority chemicals to be considered by the department.

(b) The designation of priority consumer products by the department does not take effect until the adjournment of the regular legislative session immediately following the identification of priority consumer products, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the list of priority consumer products to be considered by the department.

(c) The determination of regulatory actions by the department does not take effect until the adjournment of the regular legislative session immediately following the determination by the department, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the regulatory determinations by the department.

(d) Nothing in this subsection (3) limits the authority of the department to:

(i) Begin to identify priority consumer products for a priority chemical prior to the effective date of the designation of a priority chemical;

(ii) Begin to consider possible regulatory actions prior to the effective date of the designation of a priority consumer product; or

(iii) Initiate a rule-making process prior to the effective date of a determination of a regulatory action.

(4)(a) When identifying priority chemicals and priority consumer products under this chapter, the department must notify the public of the selection, including the identification of the peer-reviewed science and other sources of information that the department relied upon, the basis for the selection, and a draft schedule for making determinations. The notice must be published in the Washington State Register. The department shall provide the public with an opportunity for review and comment on the regulatory determinations.

(b)(i) By June 1, 2020, the department must create a stakeholder advisory process to provide expertise, input, and a review of the department's rationale for identifying priority chemicals and priority consumer products and proposed regulatory determinations. The input received from a stakeholder process must be considered and addressed when adopting rules.

(ii) The stakeholder process must include, but is not limited to, representatives from: Large and small business sectors; community, environmental, and public health advocacy groups; local governments; affected and interested businesses; an expert in scientific data analysis; and public health agencies.

NEW SECTION. Sec. 6. (1) A manufacturer that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director, or the appropriate division of the department. The director shall give consideration to the request and if this action is not detrimental to the public interest and is otherwise within accord with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160. Under the procedures established under RCW 43.21A.160, the director must keep confidential any records furnished by a manufacturer under this chapter that relate to proprietary manufacturing processes or chemical formulations used in products or processes.

(2) For records or other information furnished to the department by a federal agency on the condition that the information be afforded the same confidentiality protections as under federal law, the director may determine that the information or records be available only for the confidential use of the director, the department, or the appropriate division of the department. All such records and information are exempt from public disclosure. The director is authorized to enter into an agreement with the federal agency furnishing the records or information to ensure the confidentiality of the records or information.

NEW SECTION. Sec. 7. (1) A manufacturer violating a requirement of this chapter, a rule adopted under this chapter, or an order issued under this chapter, is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators

are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense.

(2) Any penalty provided for in this section, and any order issued by the department under this chapter, may be appealed to the pollution control hearings board.

(3) All penalties collected under this chapter shall be deposited in the state toxics control account created in RCW 70.105D.070.

NEW SECTION. Sec. 8. (1) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(2)(a) The department must adopt rules to implement the determinations of regulatory actions specified in section 4(1) (b) or (c) of this act. When proposing or adopting rules to implement regulatory determinations specified in this subsection, the department must identify the expected costs and benefits of the proposed or adopted rules to state agencies to administer and enforce the rules and to private persons or businesses, by category of type of person or business affected.

(b) A rule adopted to implement a regulatory determination involving a restriction on the manufacture, wholesale, distribution, sale, retail sale, or use of a priority consumer product containing a priority chemical may take effect no sooner than three hundred sixty-five days after the adoption of the rule.

(c) Each rule adopted to implement a determination of regulatory action specified in section 4(1) (b) or (c) of this act is a significant legislative rule for purposes of RCW 34.05.328. The department must prepare a small business economic impact statement consistent with the requirements of RCW 19.85.040 for each rule to implement a determination of a regulatory action specified in section 4(1) (b) or (c) of this act.

Sec. 9. RCW 70.240.040 and 2008 c 288 s 5 are each amended to read as follows:

~~((Beginning six months after the department has adopted rules under section 8(5) of this act,))~~ A manufacturer of a children's product or a consumer product containing a priority chemical subject to a rule adopted to implement a determination made consistent with section 4(1)(b) of this act, or a trade organization on behalf of its member manufacturers, shall provide notice to the department that the manufacturer's product contains a high priority chemical or a priority chemical identified under chapter 70.--- RCW (the new chapter created in section 13 of this act). The notice must be filed annually with the department and must include the following information:

(1) The name of the chemical used or produced and its chemical abstracts service registry number;

(2) A brief description of the product or product component containing the substance;

(3) A description of the function of the chemical in the product;

(4) The amount of the chemical used in each unit of the product or product component. The amount may be reported in ranges, rather than the exact amount;

(5) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and

(6) Any other information the manufacturer deems relevant to the appropriate use of the product.

Sec. 10. RCW 43.21B.110 and 2013 c 291 s 34 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 70.94 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, 70.94.431, 70.105.080, 70.107.050, section 7 of this act, 76.09.170, 77.55.291, 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, 70.94.211, 70.94.332, 70.105.095, section 7 of this act, 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 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(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 70.95.205.

(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.

(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.

(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 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, 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.

Sec. 11. RCW 34.05.272 and 2014 c 22 s 1 are each amended to read as follows:

(1) This section applies only to the water quality and shorelands and environmental assistance programs within the department of ecology and to actions taken by the department of ecology under chapter 70.--- RCW (the new chapter created in section 13 of this act).

(2)(a) Before taking a significant agency action, which includes each department of ecology rule to implement a determination of a regulatory action specified in section 4(1) (b) or (c) of this act, the department of ecology must identify the sources of information reviewed and relied upon by the agency in the course of preparing to take significant agency action. Peer-reviewed literature, if applicable, must be identified, as well as any scientific literature or other sources of information used. The department of ecology shall make available on the agency's web site the index of records required under RCW 42.56.070 that are relied upon, or invoked, in support of a proposal for significant agency action.

(b) On the agency's web site, the department of ecology must identify and categorize each source of information that is relied upon in the form of a bibliography, citation list, or similar list of sources. The categories in (c) of this subsection do not imply or infer any hierarchy or level of quality.

(c) The bibliography, citation list, or similar list of sources must categorize the sources of information as belonging to one or more of the following categories:

(i) Independent peer review: Review is overseen by an independent third party;

(ii) Internal peer review: Review by staff internal to the department of ecology;

(iii) External peer review: Review by persons that are external to and selected by the department of ecology;

(iv) Open review: Documented open public review process that is not limited to invited organizations or individuals;

(v) Legal and policy document: Documents related to the legal framework for the significant agency action including but not limited to:

- (A) Federal and state statutes;
- (B) Court and hearings board decisions;
- (C) Federal and state administrative rules and regulations; and
- (D) Policy and regulatory documents adopted by local governments;

(vi) Data from primary research, monitoring activities, or other sources, but that has not been incorporated as part of documents reviewed under the processes described in (c)(i), (ii), (iii), and (iv) of this subsection;

(vii) Records of the best professional judgment of department of ecology employees or other individuals; or

(viii) Other: Sources of information that do not fit into one of the categories identified in this subsection ((~~(H)~~)) (2)(c).

(3) For the purposes of this section, "significant agency action" means an act of the department of ecology that:

(a) Results in the development of a significant legislative rule as defined in RCW 34.05.328; or

(b) Results in the development of technical guidance, technical assessments, or technical documents that are used to directly support implementation of a state rule or state statute.

(4) This section is not intended to affect agency action regarding individual permitting, compliance and enforcement decisions, or guidance provided by an agency to a local government on a case-by-case basis.

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 8 and 14 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 14. This act may be known and cited as the pollution prevention for healthy people and Puget Sound act.

Passed by the Senate April 22, 2019.

Passed by the House April 15, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 293

[Senate Bill 5918]

BOATING SAFETY EDUCATION PROGRAM--WHALE WATCHING GUIDELINES

AN ACT Relating to providing whale watching guidelines in the boating safety education program; amending RCW 79A.60.630; and creating a new section.

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

Sec. 1. RCW 79A.60.630 and 2011 c 171 s 118 are each amended to read as follows:

(1) The commission shall establish and implement by rule a program to provide required boating safety education. The boating safety education program shall include training on preventing the spread of aquatic invasive species. The

boating safety education program shall include educational materials regarding whale watching guidelines and other voluntary and regulatory measures related to whale watching. The program shall be phased in so that all boaters not exempted under RCW 79A.60.640(3) are required to obtain a boater education card by January 1, 2016. To obtain a boater education card, a boater shall provide a certificate of accomplishment issued by a boating educator for taking and passing an accredited boating safety education course, or pass an equivalency exam, or provide proof of completion of a course that meets the standard adopted by the commission.

(2) As part of the boating safety education program, the commission shall:

(a) Establish a program to be phased over eleven years starting July 1, 2005, with full implementation by January 1, 2016. The period July 1, 2005, through December 31, 2007, will be program development, boater notification of the new requirements for mandatory education, and processing cards to be issued to individuals having taken an accredited course prior to January 1, 2008. The schedule for phase-in of the mandatory education requirement by age group is as follows:

January 1, 2008 - All boat operators twenty years old and younger;

January 1, 2009 - All boat operators twenty-five years old and younger;

January 1, 2010 - All boat operators thirty years old and younger;

January 1, 2011 - All boat operators thirty-five years old and younger;

January 1, 2012 - All boat operators forty years old and younger;

January 1, 2013 - All boat operators fifty years old and younger;

January 1, 2014 - All boat operators sixty years old and younger;

January 1, 2015 - All boat operators seventy years old and younger;

January 1, 2016 - All boat operators;

(b) Establish a minimum standard of boating safety education accomplishment. The standard must be consistent with the applicable standard established by the national association of state boating law administrators;

(c) Adopt minimum standards for boating safety education course of instruction and examination that ensures compliance with the national association of state boating law administrators minimum standards;

(d) Approve and provide accreditation to boating safety education courses operated by volunteers, or commercial or nonprofit organizations, including, but not limited to, courses given by the United States coast guard auxiliary and the United States power squadrons;

(e) Develop an equivalency examination that may be taken as an alternative to the boating safety education course;

(f) Establish a fee of ten dollars for the boater education card to fund all commission activities related to the boating safety education program created by chapter 392, Laws of 2005, including the initial costs of developing the program. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.650;

(g) Establish a fee for the replacement of the boater education card that covers the cost of replacement;

(h) Consider and evaluate public agency and commercial opportunities to assist in program administration with the intent to keep administrative costs to a minimum;

(i) Approve and provide accreditation to boating safety education courses offered online; and

(j) Provide a report to the legislature by January 1, 2008, on its progress of implementation of the mandatory education 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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 22, 2019.

Passed by the House April 12, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 294

[Senate Bill 5145]

HYDRAULIC FRACTURING--OIL AND NATURAL GAS

AN ACT Relating to the use of hydraulic fracturing in the exploration for and production of oil and natural gas; and adding a new section to chapter 78.52 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 78.52 RCW to read as follows:

(1) The use of hydraulic fracturing in the exploration for, and production of, oil and natural gas is prohibited. This section does not prohibit the use of hydraulic fracturing for other purposes.

(2) For the purposes of this section, "hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or natural gas.

Passed by the Senate April 22, 2019.

Passed by the House April 17, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 295

[Engrossed Second Substitute House Bill 1139]

EDUCATOR WORKFORCE SUPPLY--VARIOUS PROVISIONS

AN ACT Relating to expanding the current and future educator workforce supply through evidence-based strategies to improve and incentivize the recruitment and retention of highly effective educators, especially in high-need subject, grade-level, and geographic areas, and to establish a cohesive continuum of high quality professional learning from preparation programs to job embedded induction, mentoring, collaboration, and other professional development opportunities; amending RCW 28A.415.370, 28A.180.120, 28A.660.020, 28A.660.035, 28B.10.033, 28B.76.699, 28A.415.270, 28A.630.205, 28B.102.020, 28B.102.030, 28B.102.045, 28B.102.090, 28A.660.042, 28A.660.045, 28B.102.055, 28B.102.080, 28B.15.558, 28A.415.265, 28A.405.100, 28A.410.278, and 41.32.068; reenacting and amending RCW 43.79A.040; adding a new section to chapter 28A.310 RCW; adding new sections to chapter 28A.630 RCW; adding new sections to chapter 28A.410 RCW; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 28B.76 RCW; adding new sections to chapter 28B.102 RCW; adding a new section to chapter 28A.660 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter

28A.400 RCW; creating new sections; recodifying RCW 28A.630.205, 28A.660.042, and 28A.660.045; repealing RCW 28B.102.010, 28B.102.040, 28B.102.050, 28B.102.060, 28A.660.050, and 28A.660.055; repealing 2016 c 233 s 19 (uncodified); providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. FINDINGS—INTENT. (1) The legislature finds that discrete efforts are being made at state and local levels to address the educator shortage, but these efforts need to be streamlined and performed in concert, in order to enhance the effect of these recruitment and retention strategies.

(2) The legislature also reaffirms that excellent, effective educators and educator leaders are essential to the state's ongoing efforts to establish a world-class, globally competitive education system. As acknowledged in Engrossed Substitute House Bill No. 2261 (chapter 548, Laws of 2009), "Teachers, principals, and administrators must be provided with access to the opportunities they need to gain the knowledge and skills that will enable them to be increasingly successful in their classroom and schools. A system that clearly defines, supports, measures, and recognizes effective teaching and leadership is one of the most important investments to be made."

(3) Therefore, the legislature intends to seize the challenges presented by the educator workforce shortage in Washington to build the capacity of the education system to attract, retain, support, and sustain successful educators through:

- (a) Intentional recruitment strategies;
- (b) Expanding educator training programs;
- (c) Focused financial incentives, assistance, and supports;
- (d) Responsive and responsible retention strategies; and
- (e) Deeper systems evaluation.

PART I

RECRUITMENT—CHARACTERISTICS OF INDIVIDUALS

NEW SECTION. Sec. 101. FINDINGS—INTENT. (1) The legislature finds that effective educators who share their love of learning inspire students to enter into the education profession. The legislature further finds that every category and level of educator should support and inspire the next generation into careers in education.

(2) The legislature finds that a comprehensive effort is needed to repair the disjointed system for attracting persons into certificated educator professions. The legislature acknowledges that Washington is facing a short-term recruitment problem with the immediate need to fill classroom vacancies, but recognizes that it must also solve its long-term recruitment problem by creating a pipeline of interested persons entering into, and remaining in, the educator workforce.

(3) Therefore, the legislature intends to support a multipronged grow-your-own initiative to develop persons from the community, which includes programs that target middle and high school students, paraeducators, military personnel, and career changers who are subject matter experts, and that supports these persons to become educators. The initiative includes:

- (a) Improvements to existing programs and activities, including the recruiting Washington teachers program, the high school career and technical

education course called careers in education, and the alternative route teacher certification programs; and

(b) Development and implementation of additional programs and activities, including the coordination of existing resources that attract persons with needed skills and abilities, improving standards of practice, and reviewing barriers to recruitment.

REGIONAL RECRUITERS

NEW SECTION. Sec. 102. A new section is added to chapter 28A.310 RCW to read as follows:

(1) For the purpose of this section, "educator" means a paraeducator, teacher, principal, administrator, superintendent, school counselor, school psychologist, school social worker, school nurse, school physical therapist, school occupational therapist, or school speech-language pathologist or audiologist.

(2) An educational service district may employ a person whose duties are to provide to local school districts the following services related to educator recruitment:

(a) Serve as a liaison between local school districts and educator preparation programs, between their region and other regions in the state, and between the local school districts and agencies that may be helpful in educator recruitment efforts, including the office of the superintendent of public instruction, the Washington professional educator standards board, the paraeducator board, the student achievement council, the state board for community and technical colleges, the state department of veterans affairs, the state military department, and the workforce training and education coordinating board;

(b) Encourage and support local school districts to develop or expand a recruiting Washington teachers program under RCW 28A.415.370, a career and technical education careers in education program, or an alternative route teacher certification program under chapter 28A.660 RCW;

(c) Provide outreach to community members who may be interested in becoming educators, including high school and college students, subject matter experts, and former military personnel and their spouses;

(d) Support persons interested in becoming educators by providing resources and assistance with navigating transition points on the path to a career in education; and

(e) Provide resources and technical assistance to local school districts on best hiring processes and practices.

(3) A person employed to provide the services described in subsection (2) of this section must be reflective of, and have an understanding of, the local community.

NEW SECTION. Sec. 103. A new section is added to chapter 28A.630 RCW to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must administer the regional educator recruitment program. Grant awards of up to one hundred thousand dollars each must be awarded to the three educational service districts whose school districts have the least access to alternative route teacher certification programs under chapter 28A.660 RCW.

(b) Beginning September 1, 2019, the educational service districts in the program must employ a person with the duties and characteristics specified in section 102 of this act. The educational service districts in the program must collaborate with the office of the superintendent of public instruction and the Washington association of educational service districts to prepare the report required in (c) of this subsection.

(c) By December 1, 2021, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction, in collaboration with the Washington association of educational service districts, must evaluate the program and submit a report to the appropriate committees of the legislature. At a minimum, the report must: Summarize the activities of the educational service districts in the program with regard to educator recruitment, including the activities described in section 102 of this act, in comparison to the educator recruitment activities of the educational service districts not participating in the program; include any relevant outcome data that is available; and recommend whether the program should be modified, expanded to all educational service districts, or discontinued.

(2) This section expires July 1, 2022.

STUDENTS

Sec. 104. RCW 28A.415.370 and 2007 c 402 s 10 are each amended to read as follows:

HIGH SCHOOL STUDENTS—THROUGH THE RECRUITING WASHINGTON TEACHERS PROGRAM.

(1)(a) The recruiting Washington teachers program is established to recruit and provide training and support for high school students to enter the ~~((teaching profession))~~ field of education, especially in ~~((teacher))~~ shortage areas ~~((and among underrepresented groups and multilingual, multicultural students))~~. The program shall be administered by the Washington professional educator standards board.

(b) As used in this section, "shortage area" has the definition in RCW 28B.102.020.

(2) The program shall consist of the following components:

(a) Targeted recruitment of diverse high school students~~(s)~~ including, but not limited to, students from underrepresented groups and multilingual, multicultural students in grades nine through twelve, through outreach and communication strategies. The focus of recruitment efforts shall be on encouraging students to consider and explore ~~((becoming future teachers in mathematics, science, bilingual education, special education, and English as a second language. Program enrollment is not limited to students from underrepresented groups or multilingual, multicultural students))~~ careers in the field of education;

(b) A high school curriculum that: Provides future ~~((teachers))~~ educators with opportunities to observe classroom instruction at all grade levels; includes preteaching internships at all grade levels with a focus on shortage areas; and covers such topics as lesson planning, learning styles, student learning data and information, ~~((the achievement gap))~~ academic disparities among student subgroups, cultural competency, college success and workforce skills, and education policy;

(c) Academic and community support services (~~(for students)~~) to help ~~((them))~~ students overcome possible barriers to becoming future ~~((teachers))~~ educators, such as supplemental tutoring; advising on college readiness and college course selection, college applications, and financial aid processes and financial education opportunities; and mentoring. Support services for program participants may continue from high school through the first two years of college; and

(d) Future ~~((teacher))~~ educator camps held on college campuses where high school students can: Acclimate to the campus, resources, and culture; attend workshops; and interact with college faculty, teacher candidates, and ((current)) certificated teachers.

(3) As part of its administration of the program, the Washington professional educator standards board shall:

(a) Develop the curriculum and program guidelines in consultation with an advisory group of teachers, representatives of teacher preparation programs, teacher candidates, high school students, and representatives of diverse communities;

(b) Subject to ~~((funds))~~ the availability of amounts appropriated for this specific purpose, allocate grant funds through a competitive process to partnerships of high schools, teacher preparation programs, and community-based organizations to design and deliver programs that include the components under subsection (2) of this section. The board must prioritize grants to partnerships that also have a running start program under chapter 28A.600 RCW; and

(c) Conduct ~~((an))~~ periodic evaluations of the effectiveness of current strategies and programs for recruiting ~~((teachers))~~ educators, especially multilingual, multicultural ~~((teachers))~~ educators, in Washington and in other states. The board shall use the findings from the evaluation to revise the recruiting Washington teachers program as necessary and make other recommendations to teacher preparation programs or the legislature.

Sec. 105. RCW 28A.180.120 and 2017 c 236 s 4 are each amended to read as follows:

~~((In 2017, funds must be appropriated for the purposes in this section.))~~

(1) The Washington professional educator standards board, beginning in the 2017-2019 biennium, shall administer the bilingual educator initiative, which is a long-term program to recruit, prepare, and mentor bilingual high school students to become future bilingual teachers and counselors.

(2) Subject to the availability of amounts appropriated for this specific purpose, pilot projects must be implemented in one or two school districts east of the crest of the Cascade mountains and one or two school districts west of the crest of the Cascade mountains, where immigrant students are shown to be rapidly increasing. Districts selected by the Washington professional educator standards board must partner with at least one two-year and one four-year college in planning and implementing the program. The Washington professional educator standards board shall provide oversight.

(3) Participating school districts must implement programs, including: (a) An outreach plan that exposes the program to middle school students and recruits them to enroll in the program when they begin their ninth grade of high school; (b) activities in ninth and tenth grades that help build student agency,

such as self-confidence and awareness, while helping students to develop academic mind-sets needed for high school and college success; the value and benefits of teaching and counseling as careers; and introduction to leadership, civic engagement, and community service; (c) credit-bearing curricula in grades eleven and twelve that include mentoring, shadowing, best practices in teaching in a multicultural world, efficacy and practice of dual language instruction, social and emotional learning, enhanced leadership, civic engagement, and community service activities.

(4) There must be a pipeline to college using two-year and four-year college faculty and consisting of continuation services for program participants, such as advising, tutoring, mentoring, financial assistance, and leadership.

(5) High school and college teachers and counselors must be recruited and compensated to serve as mentors and trainers for participating students.

(6) After obtaining a high school diploma, students qualify to receive conditional loans to cover the full cost of college tuition, fees, and books. To qualify for funds, students must meet program requirements as developed by their local implementation team, which consists of staff from their school district and the partnering two-year and four-year college faculty.

(7) In order to avoid loan repayment, students must (a) earn their baccalaureate degree and certification needed to serve as a teacher or professional guidance counselor; and (b) teach or serve as a counselor in their educational service district region for at least five years. Students who do not meet the repayment terms in this subsection are subject to repaying all or part of the financial aid they receive for college unless students are recipients of funding provided through programs such as the state need grant program or the college bound scholarship program.

(8) Grantees must work with the Washington professional educator standards board to draft the report required in section 6, chapter 236, Laws of 2017.

(9) The Washington professional educator standards board must use the findings from the evaluation conducted under RCW 28A.415.370 to revise the bilingual educator initiative as necessary.

(10) The Washington professional educator standards board may adopt rules to implement this section.

CAREER CHANGERS

Sec. 106. RCW 28A.660.020 and 2017 c 14 s 1 are each amended to read as follows:

SUBJECT MATTER EXPERTS—THROUGH ALTERNATIVE ROUTES.

(1) ~~((The professional educator standards board shall transition the alternative route partnership grant program from a separate competitive grant program to a preparation program model to be expanded among approved preparation program providers.))~~ (a) Alternative route((s)) programs are partnerships between Washington professional educator standards board-approved preparation programs, Washington school districts, and other partners as appropriate. Program design of alternative route programs ~~((shall continue to))~~ must evolve over time to reflect innovations and improvements in educator preparation.

(b) The Washington professional educator standards board must construct rules that address the competitive grant process and program design.

(2) As provided in RCW 28A.410.210, it is the duty of the Washington professional educator standards board to establish policies for the approval of nontraditional preparation programs and to provide oversight and accountability related to the quality of these programs. In establishing and amending rules for alternative route programs, the Washington professional educator standards board shall:

(a) Uphold design criteria for alternative route programs ~~((design))~~ that ~~((is))~~ are innovative and reflect ~~((s))~~ evidence-based practice;

(b) Ensure that approved partnerships reflect district engagement in their resident alternative route program as an integral part of their future workforce development, as well as school and student learning improvement strategies;

(c) ~~((Amend or adopt rules issuing preservice residents certification))~~ Issue certificates necessary for student teachers to serve as substitute teachers in classrooms within the residency school for up to ten days per school year;

(d) ~~((Continue to))~~ Prioritize program designs tailored to the needs of experienced paraeducators and candidates of high academic attainment in, or with occupational industry experience relevant to, the subject area they intend to teach. In doing so the program designs must take into account school district demand for certain teacher credentials;

(e) Expand access and opportunity for individuals to become teachers statewide; and

(f) Give preference in admissions to applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program.

(3) Beginning December 1, 2017, and by December 1st each odd-numbered year thereafter, the Washington professional educator standards board shall report to the education committees of the house of representatives and the senate the following outcomes as indicators that alternative route programs are meeting legislative intent through the regulation and oversight of the Washington professional educator standards board. In considering administrative rules for, and reporting outcomes of, alternative route programs, the Washington professional educator standards board shall examine the ~~((historical record of the data, reporting on))~~ following data on alternative route program participants:

(a) The number and percentage ~~((of alternative route completers))~~ hired as certificated teachers;

(b) The percentage ~~((of alternative route completers))~~ from underrepresented populations;

(c) Three-year and five-year retention rates of ~~((alternative route completers))~~ participants hired as certificated teachers;

(d) The average hiring dates ~~((of alternative route completers))~~; and

(e) The percentage ~~((of alternative route completers))~~ hired ~~((is))~~ by districts (where) in which the participants completed their alternative route programs ~~((was completed))~~.

(4) ~~((To the extent funds are))~~ Subject to the availability of amounts appropriated for this specific purpose, alternative route programs may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend provided by state funds shall not exceed five hundred dollars.

Sec. 107. RCW 28A.660.035 and 2017 c 14 s 2 are each amended to read as follows:

COMMUNITY MEMBERS—THROUGH ALTERNATIVE ROUTES.

The office of the superintendent of public instruction shall identify school districts that have the most significant (~~(achievement gaps)~~) academic disparities among subgroups of students and for large numbers of those students, and districts that should receive priority for assistance in advancing cultural competency skills in their workforce. The Washington professional educator standards board shall provide assistance to the identified school districts to develop partnership (~~(grant)~~) programs between the districts and teacher preparation programs to provide alternative route programs under RCW 28A.660.020 and to recruit paraeducators and other (~~(individuals)~~) persons in the local community to become (~~(certified)~~) certificated as teachers. An alternative route partnership program proposed by an identified school district shall receive priority eligibility for partnership grants under RCW 28A.660.020. To the maximum extent possible, the board shall coordinate the recruiting Washington teachers program under RCW 28A.415.370 with the alternative route partnership programs under this section.

NEW SECTION. Sec. 108. MILITARY PERSONNEL AND THEIR SPOUSES—REVIEW BARRIERS TO RECRUITMENT. (1) The Washington professional educator standards board shall convene a work group to examine and make recommendations on recruitment of military personnel and their spouses into educator positions within the school districts. For the purpose of this section, "educator" means a paraeducator, teacher, principal, administrator, superintendent, school counselor, school psychologist, school social worker, school nurse, school physical therapist, school occupational therapist, or school speech-language pathologist or audiologist.

(2) The members of the work group must include representatives from the office of the superintendent of public instruction, the state department of veterans affairs, the state military department, the United States department of defense, educator preparation programs, and state educator associations, and a superintendent from a school district in the vicinity of a military installation.

(3) The work group must review the barriers that exist to former military personnel becoming educators in Washington, including obtaining academic credit for prior learning and financial need.

(4) Staff support for the work group must be provided by the Washington professional educator standards board.

(5) By December 1, 2019, and in compliance with RCW 43.01.036, the work group shall report its findings and recommendations to the appropriate committees of the legislature.

(6) This section expires July 1, 2020.

NEW SECTION. Sec. 109. A new section is added to chapter 28A.630 RCW to read as follows:

EDUCATIONAL SERVICE DISTRICT ALTERNATIVE ROUTE PILOT PROGRAM.

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, the Washington professional educator standards board shall distribute grants to an educational service district that volunteers to pilot an alternative

route teacher certification program, under chapter 28A.660 RCW. The purpose of the grant is to provide financial assistance to teacher candidates enrolled in the educational service district's alternative route teacher certification program with the intent to pursue an initial teacher certificate. The Washington professional educator standards board must provide a grant sufficient to provide up to five thousand dollars of financial assistance for up to twenty teacher candidates in the 2019-20 school year and for up to thirty teacher candidates in the 2020-21 school year.

(b) In piloting the program, the educational service district must:

(i) Engage retired or practicing teachers and administrators who are knowledgeable and experienced classroom teachers to inform the development and curriculum of the program;

(ii) Provide extended support and mentoring through the first three years of a teacher's career, using the components of the beginning educator support team, under RCW 28A.415.265;

(iii) Support school districts in developing school staff and community members to become teachers, so that the district's teachers better reflect the region's demographics, values, and interests; and

(iv) Provide opportunities for classified staff to become teachers.

(2) By November 1, 2024, the volunteer educational service district must report to the Washington professional educator standards board with the outcomes of the pilot and any recommendations for implementing alternative route teacher certification programs in other educational service districts. The report must include the following data: (a) The number of teacher candidates applying for, and completing, the alternative route teacher certification program; (b) the number of program completers who are hired as teachers, both in the educational service district and elsewhere in the state; and (c) the retention of teachers in the educational service district before and after implementation of the pilot. The data must be disaggregated by race and ethnicity, gender, type of endorsement, and school. The report must also include feedback from school principals and teachers in the local school districts on the quality of the teacher candidates they worked with during the pilot.

(3) By December 1, 2024, and in compliance with RCW 43.01.036, the Washington professional educator standards board must submit the educational service district's report, required under subsection (2) of this section, to the appropriate committees of the legislature, with recommendations for whether the pilot program should be expanded, modified, or terminated.

(4) This section expires August 1, 2025.

PART II

FINANCIAL INCENTIVES, ASSISTANCE, AND SUPPORTS

NEW SECTION. **Sec. 201.** FINDINGS—INTENT. (1) The legislature finds that financial incentives, assistance, and supports are essential to recruit and retain persons into educator positions within the public common school system. In order to have the most impact, these incentives, assistance, and supports must be related explicitly and directly to the legislature's objectives for recruiting and retaining an educator workforce that will best serve diverse student populations, as well as meet the state's short-term and long-term educator workforce needs.

(2) Therefore, the legislature intends to:

(a) Promote effective incentives, assistance, and supports;
 (b) Remove barriers and disincentives; and
 (c) Enhance and encourage capacity-building for and coordination between educator preparation programs and the public common school system, especially in underserved areas.

(3) The legislature finds that conditional scholarship and loan repayment programs are effective tools to attract persons into the profession of education and to encourage future teachers to seek certifications in shortage areas. Therefore, the legislature intends to utilize conditional scholarships to recruit candidates to meet targeted needs in education and to assist with keeping new educators in the profession during the early years of their career. The legislature recognizes that the state need grant does not meet the needs of many qualified students, so conditional scholarships are intended to be provided in a "last dollar in" model. The legislature also intends for loan repayment programs to help retain certificated educators who are already working in the public common schools.

(4) The legislature finds that the location and characteristics of a student teacher's field placement are strong predictors of where the teacher takes his or her first job. Therefore, the legislature intends to encourage the appropriate placement of student teachers, especially in high-need subject and geographic areas. In addition, the legislature intends to continue providing grants for student teachers at Title I public common schools.

FIELD PLACEMENTS

Sec. 202. RCW 28B.10.033 and 2016 c 233 s 10 are each amended to read as follows:

FIELD PLACEMENT PLANS.

(1) ~~((By July 1, 2018,)) (a) Each ((institution of higher education with a)) Washington professional educator standards board-approved teacher preparation program, including an alternative route teacher certification program, must develop a plan describing how the ~~((institution of higher education))~~ program will partner with school districts in the general geographic region of the ~~((school, or where its programs are offered,))~~ program regarding field placement of ~~((resident))~~ student teachers. The plans must be developed in collaboration with school districts desiring to partner with the ~~((institutions of higher education))~~ programs, and may include use of unexpended federal or state funds to support residencies and mentoring for students who are likely to continue teaching in the district in which they have a supervised ~~((student teaching residency))~~ field placement.~~

(b) Beginning July 1, 2020, the following goals must be considered when developing the plans required under this section:

(i) Field placement of student teachers should be targeted to high-need subject areas, including special education and English learner, and high-need geographic areas, including Title I and rural schools; and

(ii) Student teacher mentors should be highly effective as evidenced by the mentors having received level 3 or above on both criteria 3 (recognizing individual student learning needs and developing strategies to address those needs) and criteria 6 (using multiple student data elements to modify instruction and improve student learning) on their most recent comprehensive performance evaluation under RCW 28A.405.100. Student teacher mentors should also have

received or be concurrently receiving professional development in mentoring skills.

(2) The plans required under subsection (1) of this section must be submitted to the Washington professional educator standards board and updated ((at least biennially)) by July 1st every even-numbered year.

(3) The Washington professional educator standards board shall post the plans and updates required under this section on its web site.

NEW SECTION. Sec. 203. A new section is added to chapter 28A.410 RCW to read as follows:

FIELD PLACEMENT PLANS.

Each Washington professional educator standards board-approved teacher preparation program, including an alternative route teacher certification program, must develop a plan regarding field placement of student teachers in accordance with RCW 28B.10.033.

NEW SECTION. Sec. 204. A new section is added to chapter 28A.630 RCW to read as follows:

FIELD PLACEMENT REPORT.

By December 1, 2019, and in compliance with RCW 43.01.036, the student achievement council, in cooperation with the Washington professional educator standards board-approved teacher preparation programs, the Washington state school directors' association, and the rural education center at Washington State University, must submit a report to the appropriate committees of the legislature. The report must include policy recommendations to encourage or require the Washington professional educator standards board-approved teacher preparation programs to develop relationships with, and provide supervisory support for field placements of student teachers in, school districts that are not in the general geographic area of an approved teacher preparation program.

NEW SECTION. Sec. 205. A new section is added to chapter 28B.10 RCW to read as follows:

REMOTE SUPERVISION TECHNOLOGY.

(1) Subject to the availability of amounts appropriated for this specific purpose, Central Washington University shall acquire the necessary audiovisual technology and equipment for university faculty to remotely supervise student teachers in ten schools.

(2) A school selected for the purposes of remote supervision of student teachers under this section must be a rural public school that currently is unable to have student teachers from Central Washington University's teacher preparation program due to its geographic location.

Sec. 206. RCW 28B.76.699 and 2016 c 233 s 17 are each amended to read as follows:

GRANTS FOR STUDENT TEACHERS AT TITLE I SCHOOLS.

(1) Subject to the availability of amounts appropriated for this specific purpose, the office shall administer a student teaching ~~((residency))~~ grant program to provide additional funds to ~~((individuals-completing))~~ student ~~((teaching-residencies))~~ teachers at Title I public common schools in Washington.

(2) To qualify for the grant, recipients must be enrolled in a Washington professional educator standards board-approved teacher preparation program, be

completing or about to start ((a)) student teaching ((residency)) at a Title I public common school, and demonstrate financial need, as defined by the office and consistent with the income criteria required to receive the state need grant established in chapter 28B.92 RCW or applicable rules.

(3)(a) Beginning December 1, 2020, and in compliance with RCW 43.01.036, the office must submit a biennial report to the appropriate committees of the legislature. The report must provide the following information:

(i) Aggregate data on the number of persons who applied for and received the grants awarded under this section, including teacher preparation program type, student teaching school district, and award amount;

(ii) To the maximum extent practicable, aggregate data on where grant recipients are teaching two years and five years after obtaining a teacher certificate, and whether grant recipients remain teaching in Title I public common schools; and

(iii) Recommendations for modifying the grant program.

(b) The education data center must collaborate with the office to provide the data needed for the report required under this section.

(4) The office shall establish rules for administering the grants under this section.

Sec. 207. RCW 28A.415.270 and 1996 c 233 s 1 are each amended to read as follows:

(1) To the extent funds are appropriated, the Washington state principal internship support program is created beginning in the 1994-95 school year. The purpose of the program is to provide funds to school districts to provide partial release time for district employees who are in a principal preparation program to complete an internship with a mentor principal. Funds may be used in a variety of ways to accommodate flexible implementation in releasing the intern to meet program requirements.

(2) Participants in the principal internship support program shall be selected as follows:

(a) The candidate shall be enrolled in a state board-approved school principal preparation program;

(b) The candidate shall apply in writing to his or her local school district;

(c) Each school district shall determine which applicants meet its criteria for participation in the principal internship support program ~~((and shall notify its educational service district of the school district's selected applicants. When submitting the names of applicants, the school district shall identify a mentor principal for each principal intern applicant, and shall agree to provide the internship applicant release time not to exceed the equivalent of forty-five student days by means of this funding source; and~~

~~(d) Educational service districts;);~~

(d) Applicants submit their applications to the office of the superintendent of public instruction's designee; and

(e) The office of the superintendent of public instruction's designee, with the assistance of an advisory board, shall select internship participants.

(3) The maximum amount of state funding for each internship shall not exceed the actual daily rate cost of providing a substitute teacher for the equivalent of forty-five school days.

~~(4) ((Funds appropriated for the principal internship support program shall be allocated by the superintendent of public instruction to the educational service districts based on the percentage of full-time equivalent public school students enrolled in school districts in each educational service district. If it is not possible to find qualified candidates within the educational service district, the positions remain unfilled, and any unspent funds shall revert to the superintendent of public instruction for supplementary direct disbursement.~~

~~The superintendent of public instruction shall allocate any remaining unfilled positions and unspent funds among the educational service districts that have qualified candidates but not enough positions for them.~~

~~This subsection does not preclude the superintendent of public instruction from permitting the affected educational service districts to make the supplementary selections.~~

~~(5))~~ Once principal internship participants have been selected, the ~~((educational service districts))~~ office of the superintendent of public instruction shall allocate the funds to the appropriate school districts. The funds shall be used to pay for partial release time while the school district employee is completing the principal internship.

~~((6) Educational service districts may be reimbursed for costs associated with implementing the program. Reimbursement rates shall be determined by the superintendent of public instruction.))~~

BASIC SKILLS AND CONTENT TEST ASSISTANCE

Sec. 208. RCW 28A.630.205 and 2016 c 233 s 16 are each amended to read as follows:

TEACHER ENDORSEMENT AND CERTIFICATION HELP PROGRAM.

~~(1) ((Subject to the availability of amounts appropriated for this specific purpose,))~~ The teacher endorsement and certification help ((pilot project)) program, known as the TEACH ((pilot)) program, is created. ((The scale of the TEACH pilot is dependent on the level of funding appropriated.))

~~(2) The student achievement council, after consultation with the~~ Washington professional educator standards board, shall have the power and duty to develop and adopt rules as necessary under chapter 34.05 RCW to administer the ~~((pilot project))~~ program described in this section. The rules, which must be adopted by ~~((August))~~ November 1, ((2016)) 2019, must include:

- ~~(a) A TEACH ((pilot)) grant application process;~~
- ~~(b) A financial need verification process;~~
- ~~(c) The order of priority in which the applications will be approved; and~~
- ~~(d) A process for disbursing TEACH ((pilot)) grant awards to selected applicants.~~

~~(3) A student seeking a TEACH ((pilot)) grant to cover the costs of basic skills and content tests required for~~ initial teacher certification and endorsement must submit an application to the student achievement council, following the rules developed under this section.

~~(4) To qualify for financial assistance, an applicant must meet the following criteria:~~

- ~~(a) Be enrolled in, have applied to, or have completed a~~ Washington professional educator standards board-approved teacher preparation program;

(b) Demonstrate financial need, as defined by the office of student financial assistance and consistent with the income criteria required to receive the state need grant established in chapter 28B.92 RCW or applicable rules;

(c) Apply for a TEACH ((~~pilot~~)) grant under this section; and

(d) Register for an endorsement competency test in one or more endorsement shortage areas, where "shortage area" has the definition in RCW 28B.102.020.

(5) Beginning ((~~September~~)) November 1, ((2016)) 2019, the student achievement council, in collaboration with the Washington professional educator standards board, shall award a TEACH ((~~pilot~~)) grant to a student who meets the qualifications listed in this section and in rules developed under this section. The TEACH ((~~pilot~~)) grant award must cover the costs of basic skills and content tests required for initial teacher certification. The council shall prioritize TEACH ((~~pilot~~)) grant awards first to applicants registered for competency tests in endorsement shortage areas and second to applicants with greatest financial need. The council shall scale the number of TEACH ((~~pilot~~)) grant awards to the amount of funds appropriated for this purpose.

(6) The student achievement council and the Washington professional educator standards board shall include information about the TEACH ((~~pilot~~)) program in materials distributed to schools and students.

(7) ((~~By~~)) Beginning December ((~~31, 2018~~)) 1, 2020, and by December 1st each even-numbered year thereafter, in compliance with RCW 43.01.036, the student achievement council, in collaboration with the Washington professional educator standards board, shall submit a ((~~preliminary~~)) report to the appropriate committees of the legislature that details the effectiveness and costs of the ((~~pilot project~~)) program. The ((~~preliminary~~)) report must:

(a) Compare the numbers and demographic information of students taking and passing tests in the endorsement shortage areas before and after implementation of the ((~~pilot project, and~~)) program;

(b) Determine the amount of TEACH ((~~pilot~~)) grants ((~~award financial assistance~~)) awarded each ((~~pilot~~)) year and per student((-

~~(8) By December 31, 2020, and in compliance with RCW 43.01.036, the student achievement council, in collaboration with the professional educator standards board, shall submit a final report to the appropriate committees of the legislature that details the effectiveness and costs of the pilot project. In addition to updating the preliminary report, the final report must (a)):~~

~~(c) Compare~~ the numbers and demographic information of students obtaining teaching certificates with endorsement competencies in the endorsement shortage areas before and after implementation of the ((~~pilot project,~~)) program; and

~~((b))~~ ~~(d) Recommend~~ whether the ((~~pilot project~~)) program should be modified, continued, and expanded.

~~((9) This section expires July 1, 2021.))~~

NEW SECTION. Sec. 209. RECODIFICATION. RCW 28A.630.205 is recodified as a section in chapter 28B.76 RCW.

EDUCATOR CONDITIONAL SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS

NEW SECTION. **Sec. 210.** INTENT. (1) By amending the financial assistance programs under this chapter, the legislature intends to: (a) Provide assistance to a broad range of educators including, though not exclusively to, certificated teachers; (b) attract and retain potential educators, especially to meet areas of educator shortage; (c) streamline the administration of the programs; and (d) make the use of state appropriations more flexible.

(2) The legislature intends for the student achievement council to balance the number, the amount, and the type of awards distributed. When selecting participants and defining the awards, the student achievement council shall consult with stakeholders to: (a) Consider the purpose of each financial assistance program; (b) recognize the total cost of attendance to complete an educator preparation program; and (c) consider the needs of the education system, including the need for educators in shortage areas.

Sec. 211. RCW 28B.102.020 and 2012 c 229 s 562 are each amended to read as follows:

DEFINITIONS.

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

(1) ~~"Approved education program" means an education program in ((the state of Washington for knowledge and skills generally learned in preschool through twelfth grade. Approved education programs may include but are not limited to:~~

~~(a) K-12 schools under Title 28A RCW; or~~

~~(b) Other K-12 educational sites in the state of Washington as designated by the student achievement council)) a common school as defined in RCW 28A.150.020.~~

(2) "Certificate" or "certificated" does not include a limited or conditioned certificate.

(3) "Certificated employee" has the definition in RCW 28A.150.203. "Certificated employee" does not include a paraeducator.

(4) "Conditional scholarship" means a loan that is forgiven in whole or in part ((if the recipient renders)) in exchange for service as a ((teacher)) certificated employee in an approved education program ((in this state)).

~~((3) "Eligible student" means a student who is registered for at least six credit hours or the equivalent, demonstrates high academic achievement, is a resident student as defined by RCW 28B.15.012 and 28B.15.013, and has a declared intention to complete an approved preparation program leading to initial teacher certification or required for earning an additional endorsement, and commits to teaching service in the state of Washington.~~

(4) "Equalization fee" means the additional amount added to the principal of a loan under this chapter to equate the debt to that which the student would have incurred if the loan had been received through the federal subsidized Stafford student loan program:))

(5) "Eligible veteran or national guard member" means a Washington domiciliary who was an active or reserve member of the United States military or naval forces, or a national guard member called to active duty, who served in

active federal service, under either Title 10 or Title 32 of the United States Code, in a war or conflict fought on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters, and if discharged from service, has received an honorable discharge.

~~((6))~~ (7) "Forgiven" or "to forgive" or "forgiveness" means ((to render)) that all or part of a loan is canceled in exchange for service as a ((teacher)) certificated employee in an approved education program ((in the state of Washington in lieu of monetary repayment)).

~~((6))~~ (7) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the student achievement council.

~~((7))~~ (8) "Loan repayment" means a federal student loan that is repaid in whole or in part if the ((recipient renders service)) borrower serves as a ((teacher)) certificated employee in an approved education program ((in Washington state)).

~~((8))~~ (9) "Office" means the office of student financial assistance.

~~((9))~~ (10) "Participant" means ((an eligible student)) a person who has received a conditional scholarship or loan repayment under this chapter.

~~((10))~~ (11) "Public school" ((means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution)) has the same meaning as in RCW 28A.150.010.

~~((11) "Satisfied" means paid in full.~~

~~((12) "Teacher))~~ (12) "Shortage area" means ((a shortage of elementary or secondary school teachers in a specific subject area, discipline, classification,)) an endorsement or geographic area as defined by the Washington professional educator standards board, in consultation with the office of the superintendent of public instruction, with a shortage of certificated employees. "Shortage area" must be defined biennially using quantitative and qualitative measures.

Sec. 212. RCW 28B.102.030 and 2012 c 229 s 563 are each amended to read as follows:

ADMINISTRATION.

~~((The future teachers conditional scholarship and loan repayment program is established. The program shall be administered by the student achievement council.))~~ In administering ~~((the))~~ educator conditional scholarship and loan repayment programs under this chapter, the student achievement council shall have the following powers and duties:

(1) Select ~~((students))~~ persons to receive conditional scholarships or loan repayments;

(2) Adopt necessary rules and guidelines;

(3) Publicize the programs in collaboration with the office of the superintendent of public instruction and the Washington professional educator standards board;

(4) Collect and manage repayments from ~~((students))~~ participants who do not meet their ~~((teaching))~~ service obligations under this chapter; and

(5) Solicit and accept grants and donations from public and private sources for the programs.

***NEW SECTION.** *Sec. 213.* A new section is added to chapter 28B.102 RCW to read as follows:

PARTICIPANT SELECTION. (1) *The office, in consultation with the Washington professional educator standards board, shall determine candidate eligibility requirements for educator conditional scholarship and loan repayment programs under this chapter.*

(2)(a) *Candidate eligibility for educator conditional scholarship and loan repayment programs under this chapter shall be based in part upon whether the candidate plans to teach in a shortage area.*

(b) *The Washington professional educator standards board shall also consider the relative degree of shortages when determining candidate eligibility and any specific requirements under this chapter.*

(3)(a) *The Washington professional educator standards board may add or remove endorsements from eligibility requirements based upon the determination of geographic, demographic, or subject matter shortages.*

(b) *If an endorsement in a geographic, demographic, or subject matter shortage no longer qualifies for a conditional scholarship or loan repayment program under this chapter, participants and candidates who have received scholarships and meet all other eligibility requirements are eligible to continue to receive conditional scholarships or loan repayments until they no longer meet eligibility requirements or until their service obligation has been completed.*

(4) *For eligibility for alternative route conditional scholarships under section 217 of this act, the office, in consultation with the Washington professional educator standards board, must consider candidates who have been accepted into an awarded alternative route partnership grant program under chapter 28A.660 RCW and who have declared an intention to teach upon completion of an alternative route teacher certification program under chapter 28A.660 RCW.*

**Sec. 213 was vetoed. See message at end of chapter.*

Sec. 214. RCW 28B.102.045 and 2004 c 58 s 5 are each amended to read as follows:

CONDITION FOR CONTINUED PARTICIPATION—SATISFACTORY PROGRESS.

To receive additional disbursements under ~~((the))~~ a conditional scholarship program ~~((under))~~ authorized by this chapter, a participant must be considered by his or her ~~((institution of higher education))~~ Washington professional educator standards board-approved educator preparation program to be in a satisfactory progress condition.

NEW SECTION. *Sec. 215.* A new section is added to chapter 28B.102 RCW to read as follows:

AWARDS.

(1)(a) The office is directed to maximize the impact of conditional scholarships and loan repayments awarded under this chapter in light of shortage areas and in response to the trending financial needs of the applicant pool.

(b) In maximizing the impact of the awards, the office may adjust the number and amounts of the conditional scholarships and loan repayments made each year. However, the maximum award authorized under this chapter is eight thousand dollars per person, per academic year. Beginning in the 2020-21

academic year, the office may adjust the maximum award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(2) The allowable uses of a conditional scholarship under this chapter include the cost of attendance as determined by the office, such as tuition, room, board, and books.

(3) The award of a conditional scholarship under this chapter may not result in reduction of a participant's federal or other state financial aid.

(4) The office must make conditional scholarship and loan repayment awards from moneys in the educator conditional scholarship account created in RCW 28B.102.080.

Sec. 216. RCW 28B.102.090 and 2016 c 233 s 15 are each amended to read as follows:

TEACHER SHORTAGE CONDITIONAL SCHOLARSHIP PROGRAM.

(1) ~~((Subject to the availability of amounts appropriated for this specific purpose, the office shall develop and administer))~~ The teacher shortage conditional ((grant program as a subprogram within the future teachers conditional scholarship and loan repayment program)) scholarship program is created. The purpose of the ~~((teacher shortage conditional grant))~~ program is to provide financial aid to encourage ((individuals)) persons to become teachers ((by providing financial aid to individuals enrolled in professional educator standards approved teacher preparation programs)) and to retain these teachers in shortage areas.

(2) ~~((The office has the power and duty to develop and adopt rules as necessary under chapter 34.05 RCW to administer the program described in this section.~~

(3) ~~As part of the rule-making process under subsection (2) of this section, the office must collaborate with the professional educator standards board, the Washington state school directors' association, and the professional educator standards board approved teacher preparation programs to develop a framework for the teacher shortage conditional grant program, including eligibility requirements, contractual obligations, conditional grant amounts, and loan repayment requirements.~~

(4)(a) ~~In developing the eligibility requirements, the office must consider: Whether the individual has a financial need, is a first generation college student, or is from a traditionally underrepresented group among teachers in Washington; whether the individual is completing an alternative route teacher certification program; whether the individual plans to obtain an endorsement in a hard to fill subject, as defined by the professional educator standards board; the characteristic of any geographic shortage area, as defined by the professional educator standards board, that the individual plans to teach in; and whether a school district has committed to offering the individual employment once the individual obtains a residency teacher certificate.~~

(b) ~~In developing the contractual obligations, the office must consider requiring the individual to: Obtain a Washington state residency teacher certificate; teach in a subject or geographic endorsement shortage area, as defined by the professional educator standards board; and commit to teach for five school years in an approved education program with a need for a teacher with such an endorsement at the time of hire.~~

~~(c) In developing the conditional grant award amounts, the office must consider whether the individual is: Enrolled in a public or private institution of higher education, a resident, in a baccalaureate or postbaccalaureate program, or in an alternative route teacher certification program. In addition, the award amounts must not result in a reduction of the individual's federal or state grant aid, including Pell grants, state need grants, college bound scholarships, or opportunity scholarships.~~

~~(d) In developing the repayment requirements for a conditional grant that is converted into a loan, the terms and conditions of the loan must follow the interest rate and repayment terms of the federal direct subsidized loan program. In addition, the office must consider the following repayment schedule:~~

~~(i) For less than one school year of teaching completed, the loan obligation is eighty five percent of the conditional grant the student received, plus interest and an equalization fee;~~

~~(ii) For less than two school years of teaching completed, the loan obligation is seventy percent of the conditional grant the student received, plus interest and an equalization fee;~~

~~(iii) For less than three school years of teaching completed, the loan obligation is fifty five percent of the conditional grant the student received, plus interest and an equalization fee; and~~

~~(iv) For less than four school years of teaching completed, the loan obligation is forty percent of the conditional grant the student received, plus interest and an equalization fee.~~

~~(5) By November 1, 2018, and November 1, 2020, the office shall submit reports, in accordance with RCW 43.01.036, to the appropriate committees of the legislature that recommend whether the teacher shortage conditional grant program under this section should be continued, modified, or terminated, and that include information about the recipients of the grants under this program))~~
To qualify for the program an applicant must:

(a) Be accepted into, and maintain enrollment in, a Washington professional educator standards board-approved teacher preparation program leading to an initial teacher certificate; and

(b) Intend to pursue an initial teacher certificate with an endorsement in a shortage area.

(3) Participants are eligible to receive a teacher shortage conditional scholarship for up to four academic years.

NEW SECTION. Sec. 217. A new section is added to chapter 28B.102 RCW to read as follows:

ALTERNATIVE ROUTE CONDITIONAL SCHOLARSHIP PROGRAM.

(1) The alternative route conditional scholarship program is created. The purpose of the program is to provide financial assistance to encourage persons to become teachers through alternative route teacher certification programs and to retain these teachers in shortage areas.

(2) To qualify for the program an applicant must:

(a) Be accepted into, and maintain enrollment in, an alternative route teacher certification program under chapter 28A.660 RCW; and

(b) Intend to pursue an initial teacher certificate with an endorsement in a shortage area.

(3) Participants are eligible to receive an alternative route conditional scholarship for up to two academic years.

Sec. 218. RCW 28A.660.042 and 2017 c 237 s 19 are each amended to read as follows:

PIPELINE FOR PARAEDUCATORS CONDITIONAL SCHOLARSHIP PROGRAM.

(1) The pipeline for paraeducators conditional scholarship program is created. ~~((Participation is limited to paraeducators without a college degree who have at least three years of classroom experience. It is anticipated that candidates enrolled in this program will complete their associate of arts degree at a community and technical college in two years or less and become eligible for an endorsement in a subject matter shortage area, as defined by the professional educator standards board, via route one in the alternative routes to teacher certification program provided in this chapter.))~~ The purpose of the program is to support paraeducators who wish to become teachers by providing financial aid for the completion of an associate of arts degree.

(2) ~~((Entry requirements for candidates include))~~ To qualify for the program an applicant must:

(a) Not have earned a college degree;

(b) Provide documentation:

(i) From his or her school district or building ((validation)) of ((qualifications, including three)) one year((s)) of successful student interaction and leadership as a classified instructional employee; or

(ii) Of his or her completion of two years of a recruiting Washington teachers program, established under RCW 28A.415.370;

(c) Intend to pursue an initial teacher certificate with an endorsement in a shortage area via a Washington professional educator standards board-approved teacher preparation program; and

(d) Be accepted into, and maintain enrollment for no more than the equivalent of four full-time academic years at, a community and technical college under RCW 28B.50.020.

(3) Participants are eligible to receive a pipeline for paraeducators conditional scholarship for up to four academic years.

(4) The office must prioritize applicants in the following order:

(a) Applicants recruited and supported by their school districts to become teachers;

(b) Applicants who completed two years of a recruiting Washington teachers program, established under RCW 28A.415.370; and

(c) Applicants intending to complete an associate of arts degree in two academic years or less.

Sec. 219. RCW 28A.660.045 and 2015 3rd sp.s. c 9 s 1 are each amended to read as follows:

EDUCATOR RETOOLING CONDITIONAL SCHOLARSHIP PROGRAM.

(1) The educator retooling conditional scholarship program is created. ~~((Participation is limited to current K-12 teachers and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate. It is anticipated that candidates enrolled in~~

this program will complete the requirements for an endorsement in two years or less:

(2) Entry requirements for candidates include:

(a) ~~Current K-12 teachers shall pursue an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board, including but not limited to, mathematics, science, special education, bilingual education, English language learner, computer science education, or environmental and sustainability education.~~

(b) ~~Individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate shall pursue an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board, including but not limited to, mathematics, science, special education, bilingual education, English language learner, computer science education, or environmental and sustainability education.)~~ The purpose of the program is to increase the number of public school teachers with endorsements in shortage areas.

(2) To qualify for the program an applicant must:

(a) Hold a current Washington teacher certificate or an expired Washington teacher certificate issued after 2005;

(b) Pursue an additional endorsement in a shortage area; and

(c) Use one of the Washington professional educator standards board's pathways to complete the additional endorsement requirements in the equivalent of one full-time academic year.

(3) Participants are eligible to receive an educator retooling conditional scholarship for up to two academic years.

NEW SECTION. Sec. 220. A new section is added to chapter 28B.102 RCW to read as follows:

CAREER AND TECHNICAL EDUCATION CONDITIONAL SCHOLARSHIP PROGRAM.

(1) The career and technical education conditional scholarship program is created. The purpose of the program is to provide financial aid for nonteachers and teachers to obtain necessary certificates and endorsements through any approved route to become career and technical education teachers.

(2) To qualify for the program, an applicant must be:

(a) Accepted into, and maintain enrollment in, a Washington professional educator standards board-approved teacher preparation program; and

(b) Pursuing the necessary certificates and endorsements to teach career and technical education courses.

(3) The office must give priority to applicants who:

(a) Possess a professional license and occupational industry experience applicable to the career and technical education endorsement being pursued; or

(b) Are accepted into an alternative route teacher certification program under RCW 28A.660.020.

(4) Participants are eligible to receive a career and technical education conditional scholarship for up to two academic years.

NEW SECTION. Sec. 221. A new section is added to chapter 28B.102 RCW to read as follows:

CONDITIONAL SCHOLARSHIP—FORGIVENESS AND REPAYMENT.

(1)(a) A conditional scholarship awarded under this chapter is forgiven when the participant fulfills the terms of his or her service obligation. The office shall develop the service obligation terms for each conditional scholarship program under this chapter, including that participants must either:

(i) Serve as a certificated employee in an approved education program for two full-time school years for each year of conditional scholarship received; or

(ii) Serve as a certificated employee in a shortage area in an approved education program for one full-time school year for each year of conditional scholarship received.

(b) For participants who meet the terms of their service obligation, the office shall forgive the conditional scholarships according to the service obligation terms and shall maintain all necessary records of such forgiveness.

(2)(a) Participants who do not fulfill their service obligation as required under subsection (1) of this section incur an obligation to repay the conditional scholarship award, with interest and other fees. The office shall develop repayment terms for each conditional scholarship program under this chapter, including interest rate, other fees, minimum payment, and maximum repayment period.

(b) The office shall collect repayments from participants who do not fulfill their service obligation as required under subsection (1) of this section. Collection and servicing of repayments under this section must be pursued using the full extent of the law, including wage garnishment if necessary. The office shall exercise due diligence in maintaining all necessary records to ensure that maximum repayments are collected.

(3) The office shall establish a process for forgiveness, deferment, or forbearance for participants who fail to complete their service obligation due to circumstances beyond the participants' control, for example certain medical conditions, military deployment, declassification of a participant's shortage area, or hardship for a participant to relocate to an approved education program with a shortage area, provided the participant was serving as a certificated employee in a shortage area in an approved education program.

Sec. 222. RCW 28B.102.055 and 2011 1st sp.s. c 11 s 180 are each amended to read as follows:

FEDERAL STUDENT LOAN REPAYMENT IN EXCHANGE FOR TEACHING SERVICE PROGRAM.

(1) Upon documentation of federal student loan indebtedness, the office may enter into agreements with ~~((participants))~~ certificated teachers to repay all or part of a federal student loan in exchange for teaching service in a shortage area in an approved education~~((at))~~ program. ~~((The ratio of loan repayment to years of teaching service for the loan repayment program shall be the same as established for the conditional scholarship program.))~~ Teachers eligible for loan repayment under this section must hold an endorsement in the content area in which they are assigned to teach during the period of repayment.

(2) The agreement shall specify the period of time it is in effect and detail the obligations of the office and the participant, including the amount to be paid to the participant. The ratio of loan repayment to years of teaching service for the loan repayment program must be the same as established for the conditional

scholarship programs under section 221 of this act. The agreement ((may)) must also specify the ((geographic location and subject matter)) shortage area of teaching service for which loan repayment will be provided.

(3) At the end of each school year, a participant under this section shall provide evidence to the office that the requisite teaching service has been provided. Upon receipt of the evidence, the office shall pay the participant the agreed-upon amount for one year of full-time teaching service or a prorated amount for less than full-time teaching service. To qualify for additional loan repayments, the participant must be engaged in continuous teaching service as defined by the office. The office may approve leaves of absence from continuous service and other deferments as may be necessary.

(4) The office may, at its discretion, arrange to make the loan repayment directly to the holder of the participant's federal student loan.

(5) The office may not reimburse a participant for loan repayments made before the participant entered into an agreement with the office under this section.

(6) The office's obligations to a participant under this section shall cease when:

(a) The terms of the agreement have been fulfilled;

(b) The participant is assigned to teach in a content area in which he or she is not endorsed;

(c) The participant fails to maintain continuous teaching service as determined by the office; or

~~((e))~~ (d) All of the participant's federal student loans have been repaid.

~~((6) The office shall adopt rules governing loan repayments, including approved leaves of absence from continuous teaching service and other deferments as may be necessary.)~~

NEW SECTION. Sec. 223. A new section is added to chapter 28B.102 RCW to read as follows:

REPORTS TO THE LEGISLATURE.

Beginning November 1, 2020, and by November 1st each even-numbered year thereafter, the office shall submit a report, in accordance with RCW 43.01.036, to the appropriate committees of the legislature recommending whether the educator conditional scholarship and loan repayment programs under this chapter should be continued, modified, or terminated. The report must include information about the number of applicants for, and participants in, each program. To the extent possible, this information should be disaggregated by age, gender, race and ethnicity, family income, and unmet financial need. The report must include information about participant deferments and repayments. The report must also include information on moneys received by and disbursed from the educator conditional scholarship account under RCW 28B.102.080 each fiscal year.

Sec. 224. RCW 28B.102.080 and 2011 1st sp.s. c 11 s 182 are each amended to read as follows:

CUSTODIAL ACCOUNT.

(1) The ~~((future teachers))~~ educator conditional scholarship account is created in the custody of the state treasurer. An appropriation is not required for expenditures of funds from the account. The account is not subject to allotment

procedures under chapter 43.88 RCW except for moneys used for program administration.

(2) The office shall deposit in the account all moneys received for the ~~((future teachers))~~ educator conditional scholarship and loan repayment ~~((program and for conditional loan))~~ programs under this chapter ~~((28A.660 RCW))~~. The account shall be self-sustaining and consist of funds appropriated by the legislature for the ~~((future teachers))~~ educator conditional scholarship and loan repayment programs under this chapter, private contributions to the programs, and receipts from participant repayments from the ~~((future teachers conditional scholarship and loan repayment))~~ programs ~~((and conditional loan programs established under chapter 28A.660 RCW))~~. Beginning July 1, 2004, the office shall also deposit into the account: (a) All funds from the institution of higher education loan account that are traceable to any conditional scholarship program for teachers or prospective teachers established by the legislature before June 10, 2004; and (b) all amounts repaid by ~~((individuals))~~ participants under any such program.

(3) Expenditures from the account may be used ~~((solely for conditional loans and loan repayments to participants in the future teachers conditional scholarship and loan repayment program established by this chapter, conditional scholarships for participants in programs established in chapter 28A.660 RCW, and costs associated with program administration by the office))~~ only for the purposes of this chapter.

(4) Disbursements from the account may be made only on the authorization of the office.

~~((5) During the 2009-2011 fiscal biennium, the legislature may transfer from the future teachers conditional scholarship account to the state general fund such amounts as reflect the excess fund balance of the account.))~~

Sec. 225. RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and 2018 c 127 s 6 are each reenacted and amended to read as follows:

MANAGEMENT OF TREASURER'S TRUST FUND.

(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 Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family 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 ~~((future teachers))~~ 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 pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, ~~((the))~~ the public employees' and retirees' insurance account, ~~((the))~~ the school employees' insurance account, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

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

NEW SECTION. Sec. 226. REPEALERS. The following acts or parts of acts are each repealed:

(1) RCW 28B.102.010 (Intent—Legislative findings) and 2004 c 58 s 1 & 1987 c 437 s 1;

(2) RCW 28B.102.040 (Selection of participants—Processes—Criteria) and 2011 1st sp.s. c 11 s 178, 2008 c 170 s 306, & 2005 c 518 s 918;

(3) RCW 28B.102.050 (Award of conditional scholarships and loan repayments—Amount—Duration) and 2011 1st sp.s. c 11 s 179, 2004 c 58 s 6, & 1987 c 437 s 5;

(4) RCW 28B.102.060 (Repayment obligation) and 2011 1st sp.s. c 11 s 181, 2011 c 26 s 4, 2004 c 58 s 7, 1996 c 53 s 2, 1993 c 423 s 1, 1991 c 164 s 6, & 1987 c 437 s 6;

(5) RCW 28A.660.050 (Conditional scholarship programs—Requirements—Recipients) and 2016 c 233 s 14, 2015 3rd sp.s. c 9 s 2, 2015 1st sp.s. c 3 s 4, 2012 c 229 s 507, 2011 1st sp.s. c 11 s 134, & 2010 c 235 s 505; and

(6) RCW 28A.660.055 (Eligible veteran or national guard member—Definition) and 2009 c 192 s 3.

NEW SECTION. Sec. 227. RECODIFICATION. RCW 28A.660.042 and RCW 28A.660.045 are each recodified as sections in chapter 28B.102 RCW.

NEW SECTION. Sec. 228. A new section is added to chapter 28A.660 RCW to read as follows:

Nothing in sections 210 through 226 of this act modifies or otherwise affects conditional scholarship or loan repayment agreements under this chapter or chapter 28B.102 RCW existing before the effective date of this section.

NEW SECTION. Sec. 229. A new section is added to chapter 28B.102 RCW to read as follows:

Nothing in sections 210 through 226 of this act modifies or otherwise affects conditional scholarship or loan repayment agreements under this chapter or chapter 28A.660 RCW existing before the effective date of this section.

TUITION WAIVERS

Sec. 230. RCW 28B.15.558 and 2016 c 233 s 18 are each amended to read as follows:

SPACE AVAILABLE TUITION WAIVERS.

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section (~~and~~) teachers and other certificated instructional staff under subsection (3) of this section, and

K-12 classified staff under subsection (4) of this section. The enrollment of these persons is pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics that would affect budgetary determinations; and

(c) Persons registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means persons employed half-time or more in one or more of the following employee classifications:

(a) Permanent employees in classified service under chapter 41.06 RCW;

(b) Permanent employees governed by chapter 41.56 RCW pursuant to the exercise of the option under RCW 41.56.201;

(c) Permanent classified employees and exempt paraprofessional employees of technical colleges; and

(d) Faculty, counselors, librarians, and exempt professional and administrative employees at institutions of higher education as defined in RCW 28B.10.016.

(3) The waivers available to state employees under this section shall also be available to teachers and other certificated instructional staff employed at public common and vocational schools ~~((holding or seeking a valid endorsement and assignment in a state-identified shortage area))~~.

(4) The waivers available under this section shall also be available to classified staff employed at ~~((K-12))~~ public common schools, as defined in RCW 28A.150.020, when used for coursework relevant to the work assignment or coursework that is part of a teacher preparation program.

(5) In awarding waivers, an institution of higher education may award waivers to eligible persons employed by the institution before considering waivers for eligible persons who are not employed by the institution.

(6) If an institution of higher education exercises the authority granted under this section, it shall include all eligible state employees in the pool of persons eligible to participate in the program.

(7) In establishing eligibility to receive waivers, institutions of higher education may not discriminate between full-time employees and employees who are employed half-time or more.

(8) Each institution of higher education that awards waivers under this section must report annually to the student achievement council with the number, type, and value of waivers awarded under this section in the prior academic year, and must compare this information with other tuition and fee waivers awarded by the institution.

TEACHER PREPARATION PROGRAM EXPANSION

NEW SECTION. Sec. 231. EXPAND ENROLLMENTS IN HIGH-NEED SUBJECTS AND LOCATIONS. The legislature recognizes the important role of teacher preparation programs in addressing the shortages in the educator career continuum. Through the omnibus appropriations act, the legislature

intends to prioritize the expansion of teacher preparation program enrollments in high-need subjects and high-need locations within the state, taking into consideration the community and technical colleges' capacity to contribute to teacher preparation.

PART III RETENTION STRATEGIES

NEW SECTION. **Sec. 301.** FINDINGS—INTENT. (1) The legislature finds that the most successful education systems have robust, well-prepared educators and educator leaders, with ample and relevant mentoring and professional learning opportunities appropriate to their roles and career aspirations. Further, the legislature finds that cultivating a public common school system that focuses on the growth of educator knowledge, skills, and dispositions to help students perform at high levels not only supports better professional practice, but results in greater professional satisfaction for educators.

(2) The legislature finds that excessively rigid policies have had the unintended consequence of preventing qualified and effective educators from remaining in the common schools. Barriers to educator retention, such as lack of induction and mentoring for beginning educators, a complicated and burdensome certification system, and frequent comprehensive performance evaluation requirements must be addressed. The legislature acknowledges that a substantial step towards reducing the barriers of complicated and burdensome certification requirements was taken in chapter 26, Laws of 2017 by creating a flexible option for renewing teacher and administrator certificates. However, continued legislative review and refinement of the link between certification programs, effective pedagogy, and professional satisfaction is necessary to strengthen educator retention efforts.

(3) Further efforts can also focus on the improvement of working conditions within schools and school districts. The legislature acknowledges that the demands on educators must be balanced with an encouragement of their excitement for the profession. The legislature intends to expand upon successful educator induction and mentoring programs such as the beginning educator support team program, and to streamline the teacher and principal evaluation program requirements for the highest performing educators.

BEGINNING EDUCATOR SUPPORT

Sec. 302. RCW 28A.415.265 and 2016 c 233 s 11 are each amended to read as follows:

(1) For the purposes of this section, a mentor educator is ~~((an educator))~~ a teacher, educational staff associate, or principal who:

(a) Has ~~((achieved appropriate))~~ successfully completed training in assisting, coaching, and advising beginning principals, beginning educational staff associates, beginning teachers, or student ~~((teaching residents))~~ teachers as defined by the office of the superintendent of public instruction~~((—such as national board certification or other specialized training))~~;

(b) Has been selected using mentor standards developed by the office of the superintendent of public instruction; and

(c) Is participating in ongoing mentor skills professional development.

(2)(a) The beginning educator support team program is established to provide professional development and ~~((mentor support))~~ mentoring for beginning ~~((educators))~~ principals, beginning educational staff associates, beginning teachers, and candidates in alternative route teacher certification programs under chapter 28A.660 RCW ~~((28A.660.040, and educators on probation under RCW 28A.405.100, to be composed of the beginning educator support team for beginning educators and continuous improvement coaching for educators on probation, as provided in this section)).~~

(b) The superintendent of public instruction shall notify school districts about the beginning educator support team program and encourage districts to apply for program funds.

(3) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall allocate funds for the beginning educator support team program on a competitive basis to individual school districts ~~((or)),~~ consortia of districts, or state-tribal compact schools. ~~((School districts are encouraged to include educational service districts in creating regional consortia.))~~ In allocating funds, the office of the superintendent of public instruction shall give priority to:

(a) ~~((School districts with low performing schools identified under RCW 28A.657.020 as being challenged schools in need of improvement; and))~~ Schools and districts identified for comprehensive or targeted support and improvement as required under the federal elementary and secondary education act;

(b) School districts with a large influx of beginning principals, beginning educational staff associates, or beginning classroom teachers; and

(c) School districts that demonstrate an understanding of the research-based standards for beginning educator induction developed by the office of the superintendent of public instruction.

(4) A portion of the appropriated funds may be used for program coordination and provision of statewide or regional professional development through the office of the superintendent of public instruction.

(5) A beginning educator support team program must include the following components:

(a) A paid instructional orientation or individualized assistance before the start of the school year for ~~((beginning educators))~~ program participants;

(b) ~~((Assignment of))~~ A trained and qualified mentor assigned to each program participant for ~~((the first))~~ up to three years ~~((for beginning educators)),~~ with intensive support in the first year and decreasing support ~~((over the following))~~ in subsequent years ~~((depending on the needs of the beginning educator));~~

(c) A goal to provide ~~((beginning teachers))~~ program participants from underrepresented populations with a mentor who has strong ties to underrepresented populations;

(d) Ongoing professional development ~~((for beginning educators that is))~~ designed to meet ~~((their))~~ the unique needs of each program participant for supplemental training and skill development;

(e) Initial and ongoing professional development for mentors;

(f) Release time for mentors and ~~((their designated educators))~~ program participants to work together, as well as time for ~~((educators))~~ program participants to observe accomplished peers; ~~((and))~~

(g) To the extent possible, a school or classroom assignment that is appropriate for a beginning principal, beginning educational staff associate, or beginning teacher;

(h) Nonevaluative observations with written feedback for program participants;

(i) Support in understanding and participating in the state and district evaluation process and using the instructional framework, leadership framework, or both, to promote growth;

(j) Adherence to research-based standards for beginning educator induction developed by the office of the superintendent of public instruction; and

(k) A program evaluation that identifies program strengths and gaps using ~~((a standard evaluation tool provided from the office of the superintendent of public instruction that measures increased knowledge, skills))~~ the standards for beginning educator induction, the retention of beginning educators, and positive impact on student ~~((learning))~~ growth for program participants.

(6) ~~((Subject to the availability of amounts appropriated for this specific purpose,))~~ The beginning educator support team program components under subsection ~~((3))~~ (5) of this section may be provided for continuous improvement coaching to support educators on probation under RCW 28A.405.100.

EVALUATIONS

Sec. 303. RCW 28A.405.100 and 2012 c 35 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

(b) Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

(2)(a) ~~((Pursuant to the implementation schedule established in subsection (7)(c) of this section,))~~ Every board of directors shall, in accordance with procedures provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish ~~((revised))~~ evaluative criteria and a four-level rating system for all certificated classroom teachers.

(b) The minimum criteria shall include: (i) Centering instruction on high expectations for student achievement; (ii) demonstrating effective teaching practices; (iii) recognizing individual student learning needs and developing strategies to address those needs; (iv) providing clear and intentional focus on subject matter content and curriculum; (v) fostering and managing a safe, positive learning environment; (vi) using multiple student data elements to modify instruction and improve student learning; (vii) communicating and collaborating with parents and the school community; and (viii) exhibiting collaborative and collegial practices focused on improving instructional practice and student learning. Student growth data must be a substantial factor in evaluating the ~~((summative))~~ performance of certificated classroom teachers for at least three of the evaluation criteria listed in this subsection.

(c) The four-level rating system used to evaluate the certificated classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. The ~~((summative))~~ performance ratings shall be as follows: Level 1 - unsatisfactory; level 2 - basic; level 3 - proficient; and level 4 - distinguished. A classroom teacher shall receive one of the four ~~((summative))~~ performance ratings for each of the minimum criteria in (b) of this subsection and one of the four ~~((summative))~~ performance ratings for the evaluation as a whole, which shall be the comprehensive ~~((summative evaluation))~~ performance rating. ~~((By December 1, 2012,))~~ The superintendent of public instruction must adopt rules prescribing a common method for calculating the comprehensive ~~((summative evaluation))~~ performance rating for each of the preferred instructional frameworks, including for a focused performance evaluation under subsection (12) of this section, giving appropriate weight to the indicators evaluated under each criteria and maximizing rater agreement among the frameworks.

(d) ~~((By December 1, 2012,))~~ The superintendent of public instruction shall adopt rules that provide descriptors for each of the ~~((summative))~~ performance ratings ~~((, based on the development work of pilot school districts under subsection (7) of this section. Any subsequent changes to the descriptors by the superintendent may only be))~~ with updates to the rules made following consultation with ((a group broadly reflective of the parties represented)) the steering committee described in subsection (7)(a)(i) of this section.

(e) ~~((By September 1, 2012,))~~ The superintendent of public instruction shall identify up to three preferred instructional frameworks that support the ~~((revised))~~ four-level rating evaluation system. The instructional frameworks shall be research-based and establish definitions or rubrics for each of the four ~~((summative))~~ performance ratings for each evaluation criteria. Each school district must adopt one of the preferred instructional frameworks and post the selection on the district's web site. The superintendent of public instruction shall establish a process for approving minor modifications or adaptations to a preferred instructional framework that may be proposed by a school district.

(f) Student growth data that is relevant to the teacher and subject matter must be a factor in the evaluation process and must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. Student growth data elements may include the teacher's performance as a member of a grade-level, subject matter, or other instructional team within a school when the use of this data is relevant and appropriate.

Student growth data elements may also include the teacher's performance as a member of the overall instructional team of a school when use of this data is relevant and appropriate. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(g) Student input may also be included in the evaluation process.

(3)(a) Except as provided in subsection (11) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. An employee in the third year of provisional status as defined in RCW 28A.405.220 shall be observed at least three times in the performance of his or her duties and the total observation time for the school year shall not be less than ninety minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(b) As used in this subsection and subsection (4) of this section, "employees" means classroom teachers and certificated support personnel except where otherwise specified.

(4)(a) At any time after October 15th, an employee whose work is not judged satisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. For classroom teachers who ~~((have been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section))~~ are required to be on the four-level rating evaluation system, the following comprehensive ~~((summative evaluation))~~ performance ratings based on the evaluation criteria in subsection (2)(b) of this section mean a classroom teacher's work is not judged satisfactory:

(i) Level 1; or

(ii) Level 2 if the classroom teacher is a continuing contract employee under RCW 28A.405.210 with more than five years of teaching experience and if the level 2 comprehensive ~~((summative evaluation))~~ performance rating has been received for two consecutive years or for two years within a consecutive three-year time period.

(b) During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. Days may be added if deemed necessary to complete a program for improvement and evaluate the probationer's performance, as long as the probationary period is concluded before May 15th of the same school year. The probationary period may be extended into the following school year if the probationer has five or more years of teaching experience and has a comprehensive ~~((summative evaluation))~~ performance

rating as of May 15th of less than level 2. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency. Should the evaluator not authorize such additional evaluator, the probationer may request that an additional certificated employee evaluator become part of the probationary process and this request must be implemented by including an additional experienced evaluator assigned by the educational service district in which the school district is located and selected from a list of evaluation specialists compiled by the educational service district. Such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. If a procedural error occurs in the implementation of a program for improvement, the error does not invalidate the probationer's plan for improvement or evaluation activities unless the error materially affects the effectiveness of the plan or the ability to evaluate the probationer's performance. The probationer must be removed from probation if he or she has demonstrated improvement to the satisfaction of the evaluator in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her program for improvement. A classroom teacher who ~~((has been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section))~~ is required to be on the four-level rating evaluation system must be removed from probation if he or she has demonstrated improvement that results in a new comprehensive ~~((summative evaluation))~~ performance rating of level 2 or above for a provisional employee or a continuing contract employee with five or fewer years of experience, or of level 3 or above for a continuing contract employee with more than five years of experience. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer constitutes grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

(c) When a continuing contract employee with five or more years of experience receives a comprehensive ~~((summative evaluation))~~ performance rating below level 2 for two consecutive years, the school district shall, within ten days of the completion of the second ~~((summative))~~ comprehensive ~~((comprehensive summative))~~ performance evaluation or May 15th, whichever occurs first, implement the employee notification of discharge as provided in RCW 28A.405.300.

(d) Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and program for improvement, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the

school year. In the case of a classroom teacher who ~~((has been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section))~~ is required to be on the four-level rating evaluation system, the teacher may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year immediately following the completion of a probationary period that does not result in the required comprehensive ~~((summative evaluation))~~ performance ratings specified in (b) of this subsection. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

(5) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Except as provided in subsection (6) of this section, such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

~~(6)(a) ((Pursuant to the implementation schedule established by subsection (7)(b) of this section,))~~ Every board of directors shall establish ~~((revised))~~ evaluative criteria and a four-level rating system for principals.

(b) The minimum criteria shall include: (i) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; (ii) demonstrating commitment to closing the achievement gap; (iii) providing for school safety; (iv) leading the development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; (v) assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; (vi) monitoring, assisting, and evaluating effective instruction and assessment practices; (vii) managing both staff and fiscal resources to support student achievement and legal responsibilities; and (viii) partnering with the school community to promote student learning. Student growth data must be a substantial factor in evaluating the ~~((summative))~~ performance of the principal for at least three of the evaluation criteria listed in this subsection.

(c) The four-level rating system used to evaluate the principal must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. The ~~((summative))~~ performance ratings shall be as follows: Level 1 - unsatisfactory; level 2 - basic; level 3 - proficient; and level 4 - distinguished. A principal shall receive one of the four ~~((summative))~~ performance ratings for each of the minimum criteria in (b) of this subsection and one of the four ~~((summative))~~ performance ratings for the evaluation as a whole, which shall be the comprehensive ~~((summative evaluation))~~ performance rating.

(d) ~~((By December 1, 2012,))~~ The superintendent of public instruction shall adopt rules that provide descriptors for each of the ((summative)) performance ratings, ((based on the development work of pilot school districts under subsection (7) of this section. Any subsequent changes to the descriptors by the superintendent may only be) with updates to the rules made following consultation with ((a group broadly reflective of the parties represented)) the steering committee described in subsection (7)(a)(i) of this section.

(e) ~~((By September 1, 2012,))~~ The superintendent of public instruction shall identify up to three preferred leadership frameworks that support the ((revised)) four-level rating evaluation system. The leadership frameworks shall be research-based and establish definitions or rubrics for each of the four performance ratings for each evaluation criteria. Each school district shall adopt one of the preferred leadership frameworks and post the selection on the district's web site. The superintendent of public instruction shall establish a process for approving minor modifications or adaptations to a preferred leadership framework that may be proposed by a school district.

(f) Student growth data that is relevant to the principal must be a factor in the evaluation process and must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(g) Input from building staff may also be included in the evaluation process.

(h) ~~((For principals who have been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(e) of this section,))~~ The following comprehensive ((summative evaluation)) performance ratings mean a principal's work is not judged satisfactory:

(i) Level 1; or

(ii) Level 2 if the principal has more than five years of experience in the principal role and if the level 2 comprehensive ~~((summative evaluation))~~ performance rating has been received for two consecutive years or for two years within a consecutive three-year time period.

~~(7)(a) ((The superintendent of public instruction, in collaboration with state associations representing teachers, principals, administrators, school board members, and parents, to be known as the steering committee, shall create models for implementing the evaluation system criteria, student growth tools, professional development programs, and evaluator training for certificated classroom teachers and principals. Human resources specialists, professional development experts, and assessment experts must also be consulted. Due to the diversity of teaching assignments and the many developmental levels of students, classroom teachers and principals must be prominently represented in this work. The models must be available for use in the 2011-12 school year.~~

~~(b) A new certificated classroom teacher evaluation system that implements the provisions of subsection (2) of this section and a new principal evaluation system that implements the provisions of subsection (6) of this section shall be phased in beginning with the 2010-11 school year by districts identified in (d) of this subsection and implemented in all school districts beginning with the 2013-14 school year.~~

~~(e) Each school district board of directors shall adopt a schedule for implementation of the revised evaluation systems that transitions a portion of classroom teachers and principals in the district to the revised evaluation systems each year beginning no later than the 2013-14 school year, until all classroom teachers and principals are being evaluated under the revised evaluation systems no later than the 2015-16 school year. A school district is not precluded from completing the transition of all classroom teachers and principals to the revised evaluation systems before the 2015-16 school year. The schedule adopted under this subsection (7)(e) must provide that the following employees are transitioned to the revised evaluation systems beginning in the 2013-14 school year:~~

~~(i) Classroom teachers who are provisional employees under RCW 28A.405.220;~~

~~(ii) Classroom teachers who are on probation under subsection (4) of this section;~~

~~(iii) Principals in the first three consecutive school years of employment as a principal;~~

~~(iv) Principals whose work is not judged satisfactory in their most recent evaluation; and~~

~~(v) Principals previously employed as a principal by another school district in the state of Washington for three or more consecutive school years and in the first full year as a principal in the school district.~~

~~(d) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of new certificated classroom teacher and principal evaluation systems during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (i) The agreement of the local associations representing classroom teachers and principals to collaborate with the district in this developmental work and (ii) the agreement to participate in the full range of development and implementation activities, including: Development of rubrics for the evaluation criteria and ratings in subsections (2) and (6) of this section; identification of or development of appropriate multiple measures of student growth in subsections (2) and (6) of this section; development of appropriate evaluation system forms; participation in professional development for principals and classroom teachers regarding the content of the new evaluation system; participation in evaluator training; and participation in activities to evaluate the effectiveness of the new systems and support programs. The school districts must submit to the office of the superintendent of public instruction data that is used in evaluations and all district-collected student achievement, aptitude, and growth data regardless of whether the data is used in evaluations. If the data is not available electronically, the district may submit it in nonelectronic form. The superintendent of public instruction must analyze the districts' use of student data in evaluations, including examining the extent that student data is not used or is underutilized. The superintendent of public instruction must also consult with participating districts and stakeholders, recommend appropriate changes, and address statewide implementation issues. The superintendent of public instruction shall report evaluation system implementation status, evaluation data, and recommendations to appropriate committees of the legislature and governor by July 1, 2011, and at the conclusion of the~~

~~development phase by July 1, 2012. In the July 1, 2011, report, the superintendent shall include recommendations for whether a single statewide evaluation model should be adopted, whether modified versions developed by school districts should be subject to state approval, and what the criteria would be for determining if a school district's evaluation model meets or exceeds a statewide model. The report shall also identify challenges posed by requiring a state approval process.~~

~~(e)(i) The steering committee in subsection (7)(a) of this section and the pilot school districts in subsection (7)(d) of this section shall continue to examine implementation issues and refine tools for the new certificated classroom teacher evaluation system in subsection (2) of this section and the new principal evaluation system in subsection (6) of this section during the 2013-14 through 2015-16 implementation phase.~~

~~(ii) Particular attention shall be given to the following issues:~~

~~(A) Developing a report for the legislature and governor, due by December 1, 2013, of best practices and recommendations regarding how teacher and principal evaluations and other appropriate elements shall inform school district human resource and personnel practices. The legislature and governor are provided the opportunity to review the report and recommendations during the 2014 legislative session;~~

~~(B) Taking the new teacher and principal evaluation systems to scale and the use of best practices for statewide implementation;~~

~~(C) Providing guidance regarding the use of student growth data to assure it is used responsibly and with integrity;~~

~~(D) Refining evaluation system management tools, professional development programs, and evaluator training programs with an emphasis on developing rater reliability;~~

~~(E) Reviewing emerging research regarding teacher and principal evaluation systems and the development and implementation of evaluation systems in other states;~~

~~(F) Reviewing the impact that variable demographic characteristics of students and schools have on the objectivity, reliability, validity, and availability of student growth data; and~~

~~(G) Developing recommendations regarding how teacher evaluations could inform state policies regarding the criteria for a teacher to obtain continuing contract status under RCW 28A.405.210. In developing these recommendations the experiences of school districts and teachers during the evaluation transition phase must be considered. Recommendations must be reported by July 1, 2016, to the legislature and the governor.~~

~~(iii) To support the tasks in (e)(ii) of this subsection, the superintendent of public instruction may contract with an independent research organization with expertise in educator evaluations and knowledge of the revised evaluation systems being implemented under this section.~~

(iv)) (i) The steering committee is composed of the following participants: State associations representing teachers, principals, administrators, school board members, and parents.

(ii) The superintendent of public instruction, in collaboration with the steering committee, shall periodically examine implementation issues and refine tools for the teacher and principal four-level rating evaluation systems, including

professional learning that addresses issues of equity through the lens of the selected instructional and leadership frameworks.

(b) The superintendent of public instruction shall monitor the statewide implementation of ~~((revised))~~ teacher and principal four-level rating evaluation systems using data reported under RCW 28A.150.230 as well as periodic input from focus groups of administrators, principals, and teachers.

~~((~~(v)~~) The superintendent of public instruction shall submit reports detailing findings, emergent issues or trends, recommendations from the steering committee, and pilot school districts, and other recommendations, to enhance implementation and continuous improvement of the revised evaluation systems to appropriate committees of the legislature and the governor beginning July 1, 2013, and each July 1st thereafter for each year of the school district implementation transition period concluding with a report on December 1, 2016.))~~

(8)(a) Beginning with the 2015-16 school year, evaluation results for certificated classroom teachers and principals must be used as one of multiple factors in making human resource and personnel decisions. Human resource decisions include, but are not limited to: Staff assignment, including the consideration of an agreement to an assignment by an appropriate teacher, principal, and superintendent; and reduction in force. Nothing in this section limits the ability to collectively bargain how the multiple factors shall be used in making human resource or personnel decisions, with the exception that evaluation results must be a factor.

(b) The office of the superintendent of public instruction must, in accordance with RCW 43.01.036, report to the legislature and the governor regarding the school district implementation of the provisions of (a) of this subsection by December 1, ~~((2017))~~ 2019, and December 1, 2020.

(9) Each certificated classroom teacher and certificated support personnel shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

(10) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated classroom teachers and certificated support personnel or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

(11) After a certificated classroom teacher ~~((or))~~ who is not required to be on the four-level rating evaluation system or a certificated support personnel has four years of satisfactory evaluations under subsection (1) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) or (2) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) or (2) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such

observations being prepared. A locally bargained short-form evaluation emphasizing professional growth must provide that the professional growth activity conducted by the certificated classroom teacher be specifically linked to one or more of the certificated classroom teacher evaluation criteria. However, the evaluation process set forth in subsection (1) or (2) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) or (2) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) or (2) of this section may be used as a basis for determining that an employee's work is not satisfactory under subsection (1) or (2) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise. ~~((The provisions of this subsection apply to certificated classroom teachers only until the teacher has been transitioned to the revised evaluation system pursuant to the district implementation schedule adopted under subsection (7)(c) of this section.))~~

(12) ~~((All))~~ Certificated classroom teachers and principals who ~~((have been transitioned to the revised evaluation systems pursuant to the district implementation schedule adopted under subsection (7)(c) of this section))~~ are required to be on the four-level rating evaluation system must receive annual performance evaluations as provided in this subsection ~~((;))~~ (12).

(a) ~~((All classroom teachers and principals shall receive a comprehensive summative evaluation at least once every four years.))~~ A comprehensive ~~((summative))~~ performance evaluation assesses all eight evaluation criteria and all criteria contribute to the comprehensive ~~((summative evaluation))~~ performance rating. Classroom teachers and principals must receive a comprehensive performance evaluation according to the schedule specified in (b) of this subsection.

(b)(i) Except as otherwise provided in this subsection (12)(b), classroom teachers and principals must receive a comprehensive performance evaluation at least once every six years.

~~((b))~~ (ii) The following ~~((categories))~~ types of classroom teachers and principals ~~((shall))~~ must receive an annual comprehensive ~~((summative))~~ performance evaluation:

~~((i))~~ (A) A classroom teacher ~~((s))~~ who ~~((are))~~ is a provisional employee ~~((s))~~ under RCW 28A.405.220;

~~((ii))~~ (B) A principal ~~((s))~~ in the first three consecutive school years of employment as a principal;

~~((iii))~~ (C) A principal ~~((s))~~ previously employed as a principal by another school district in the state of Washington for three or more consecutive school years and in the first full year as a principal in the school district; and

~~((iv Any))~~ (D) A classroom teacher or principal who received a comprehensive ~~((summative evaluation))~~ performance rating of level 1 or level 2 in the previous school year.

(c)(i) In the years when a comprehensive ~~((summative))~~ performance evaluation is not required, classroom teachers and principals who received a comprehensive ~~((summative evaluation))~~ performance rating of level 3 or above

in ~~((the previous school year))~~ their previous comprehensive performance evaluation are required to complete a focused performance evaluation. A focused performance evaluation includes an assessment of one of the eight criteria selected for a performance rating plus professional growth activities specifically linked to the selected criteria.

(ii) The selected criteria must be approved by the teacher's or principal's evaluator and may have been identified in a previous comprehensive ~~((summative))~~ performance evaluation as benefiting from additional attention. A group of teachers may focus on the same evaluation criteria and share professional growth activities. A group of principals may focus on the same evaluation criteria and share professional growth activities.

(iii) The evaluator must assign a ~~((comprehensive summative evaluation))~~ performance rating for the focused performance evaluation using the methodology adopted by the superintendent of public instruction for the instructional or leadership framework being used.

(iv) A teacher or principal may be transferred from a focused performance evaluation to a comprehensive ~~((summative))~~ performance evaluation at the request of the teacher or principal, or at the direction of the teacher's or principal's evaluator.

(v) Due to the importance of instructional leadership and assuring rater agreement among evaluators, particularly those evaluating teacher performance, school districts are encouraged to conduct comprehensive ~~((summative))~~ performance evaluations of principals ~~((performance))~~ on an annual basis.

(vi) A classroom teacher or principal may apply the focused performance evaluation professional growth activities toward the professional growth plan for ~~((professional))~~ certificate renewal as required by the Washington professional educator standards board.

(13) Each school district is encouraged to acknowledge and recognize classroom teachers and principals who have attained level 4 - distinguished performance ratings.

Sec. 304. RCW 28A.410.278 and 2012 c 35 s 4 are each amended to read as follows:

REDUCING TRAINING REQUIREMENTS.

~~((1))~~ After August 31, 2013, candidates for a residency principal certificate must have demonstrated knowledge of teacher evaluation research and Washington's evaluation requirements and successfully completed opportunities to practice teacher evaluation skills.

~~((2))~~ (2) At a minimum, principal preparation programs must address the following knowledge and skills related to evaluations under RCW 28A.405.100:

~~((a))~~ (a) Examination of ~~((Washington))~~ teacher and principal evaluation criteria, and ~~((four-tiered performance))~~ four-level rating evaluation system, and the preferred instructional and leadership frameworks used to describe the evaluation criteria;

~~((b))~~ (b) Classroom observations;

~~((c))~~ (c) The use of student growth data and multiple measures of performance;

~~((d))~~ (d) Evaluation conferencing;

~~((e))~~ (e) Development of classroom teacher and principal support plans resulting from an evaluation; and

~~((vi))~~ (f) Use of an online tool to manage the collection of observation notes, teacher and principal-submitted materials, and other information related to the conduct of the evaluation.

~~((2) Beginning September 1, 2016, the professional educator standards board shall incorporate in-service training or continuing education on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of continuing or professional level certificates, including requiring knowledge and competencies in teacher and principal evaluation systems as an aspect of professional growth plans used for certificate renewal.))~~

MICROCREDENTIALS

NEW SECTION. **Sec. 305.** A new section is added to chapter 28A.630 RCW to read as follows:

(1) By October 31, 2019, and in compliance with RCW 43.01.036, the Washington professional educator standards board must report to the appropriate committees of the legislature on the results of the three microcredential pilot grant programs the board conducted during the 2018-19 academic year. The report must include: (a) A description of microcredentials and how microcredentials are used; (b) a description of and rationale for each microcredential pilot grant program; (c) information on the participants in each program, such as demographics and geographic distribution; and (d) the results of each program, including the number of participants who completed the program and earned a microcredential. The report must also include recommendations for continuing, modifying, or expanding the use of microcredentials.

(2) This section expires July 1, 2020.

NEW SECTION. **Sec. 306.** A new section is added to chapter 28A.410 RCW to read as follows:

The Washington professional educator standards board is prohibited from expanding the use of microcredentials beyond the microcredential pilot grant programs in existence on the effective date of this section unless and until the legislature directs the board to do so.

POSTRETIREMENT EMPLOYMENT

Sec. 307. RCW 41.32.068 and 2016 c 233 s 7 are each amended to read as follows:

In addition to the postretirement employment options available in RCW 41.32.802 or 41.32.862, ~~((and only until August 1, 2020,))~~ a teacher in plan 2 or plan 3 who has retired under the alternate early retirement provisions of RCW 41.32.765(3)(b) or 41.32.875(3)(b) may be employed with an employer for up to eight hundred sixty-seven hours per calendar year without suspension of his or her benefit, provided that: (1) The retired teacher reenters employment more than one calendar month after his or her accrual date and after June 9, 2016; (2) ~~((the retired teacher))~~ the retired teacher is employed ~~((exclusively as either a substitute teacher as defined in RCW 41.32.010(48)(a) in an instructional capacity, as opposed to other capacities identified in RCW 41.32.010(49); and~~ (3) ~~the employing school district compensates the district's substitute teachers at a rate that is at least eighty-five percent of the full daily amount allocated by the~~

~~state to the district for substitute teacher compensation))~~ in a nonadministrative capacity.

NEW SECTION. Sec. 308. A new section is added to chapter 41.35 RCW to read as follows:

In addition to the postretirement employment options available in RCW 41.35.060, 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) or 41.35.680(3)(b) may be employed with an employer for up to eight hundred sixty-seven hours per calendar year without suspension of his or her benefit, provided that: (1) The retiree reenters employment more than one calendar month after his or her accrual date; and (2) the retiree is employed in a nonadministrative position.

NEW SECTION. Sec. 309. 2016 c 233 s 19 (uncodified) is repealed.

REPRIMAND CONSIDERATIONS STUDY

NEW SECTION. Sec. 310. By December 1, 2020, the office of the superintendent of public instruction and the Washington professional educator standards board shall jointly report to the education committees of the legislature regarding the effect that discipline issued against professional educator certificates under RCW 28A.410.090 has on the recruitment and retention of educators in Washington state. The report must include at least the following:

(1) A comparison of the laws governing educator certificate discipline to the uniform disciplinary act, chapter 18.130 RCW;

(2) Recommendations regarding alternative forms of discipline that may be imposed on certificates of professional educators, including probation, the payment of a fine, and corrective action;

(3) Recommendations regarding the improvement of the administration of professional educator certificate discipline in Washington; and

(4) A recommendation regarding whether the Washington professional educator standards board should be authorized to establish a process for review and expungement of reprimands issued against educator certifications.

NEW SECTION. Sec. 311. A new section is added to chapter 28A.400 RCW to read as follows:

A school district employment application may not include a question asking whether the applicant has ever been placed on administrative leave.

PART IV

STRENGTHENING AND SUPPORTING PROFESSIONAL PATHWAYS FOR EDUCATORS—THE COLLABORATIVE

NEW SECTION. Sec. 401. FINDINGS—INTENT. (1) The legislature finds that additional time and resources are necessary to establish a comprehensive and coordinated long-term vision that addresses Washington's demands for an excellent, effective educator workforce. The legislature recognizes that such an undertaking requires focused efforts to develop meaningful policy options to expand the current and future workforce supply.

(2) Therefore, the legislature intends to establish a professional educator collaborative, including a variety of stakeholders, to make recommendations on how to improve and strengthen state policies, programs, and pathways that lead to highly effective educators at each level of the public common school system.

NEW SECTION. **Sec. 402.** A new section is added to chapter 28A.410 RCW to read as follows:

THE COLLABORATIVE.

(1) For the purpose of this section, "educator" means a paraeducator, teacher, principal, administrator, superintendent, school counselor, school psychologist, school social worker, school nurse, school physical therapist, school occupational therapist, or school speech-language pathologist or audiologist. "Educator" includes persons who hold, or have held, certificates as authorized by rule of the Washington professional educator standards board.

(2)(a) The professional educator collaborative is established to make recommendations on how to improve and strengthen state policies, programs, and pathways that lead to highly effective educators at each level of the public school system.

(b) The collaborative shall examine issues related to educator recruitment, certification, retention, professional learning and development, leadership, and evaluation for effectiveness. The examination must consider what barriers and deterrents hinder the recruitment and retention of professional educators, including those from underrepresented populations. The collaborative shall also consider what incentives and supports could be provided at each stage of an educator's career to produce a more effective educational system. Specifically, the collaborative must review the following issues:

(i) Educator recruitment, including the role of school districts, community and technical colleges, preparation programs, and communities, and the efficacy of financial incentives and other types of support on recruitment;

(ii) Educator preparation, including traditional and alternative route program design and content, the role of community and technical colleges, field experience duration and quality, the efficacy of financial assistance and incentives, such as apprenticeship models or other methods of providing compensation to working candidates, on program completion, school district and community connections, and the need for and efficacy of academic and social support for students;

(iii) Educator certificate types and tiers, including requirements for an initial or first-tier certificate, requirements for advanced certificates, and requirements that are transferable between certificate types;

(iv) Educator certificate renewal requirements, including comparing professional growth plan requirements with the teacher and principal residency certificate renewal requirements established in RCW 28A.410.251;

(v) Educator evaluation, including comparison to educator certificate renewal requirements to determine inconsistent or duplicative requirements or efforts, implementation issues and tool refinement, and relationship with educator compensation;

(vi) Educator certificate reciprocity;

(vii) Professional learning and development opportunities, particularly for mid-career teachers;

(viii) Leadership in the education system, including best practices of high quality leaders, training for principals and administrators, and identifying and developing teachers as leaders; and

(ix) Systems monitoring, including collection of outcomes data on educator production, employment, and retention, and the value in a cost-benefit analysis of state recruitment and retention activities.

(3)(a) The members of the collaborative must include representatives of the following organizations:

(i) The two largest caucuses of the senate and the house of representatives, appointed by the president of the senate and the speaker of the house of representatives, respectively;

(ii) The Washington professional educator standards board;

(iii) The office of the superintendent of public instruction;

(iv) The Washington association of colleges for teacher education;

(v) The Washington state school directors' association;

(vi) The Washington education association;

(vii) The Washington association of school administrators;

(viii) The association of Washington school principals; and

(ix) The association of Washington school counselors.

(b) Each organization listed in (a) of this subsection must designate one voting member, except that each legislator is a voting member.

(c) The collaborative shall choose its chair or cochairs from among its members.

(d) The voting members of the collaborative, where appropriate, may consult with stakeholders, including representatives of other educator associations, or ask stakeholders to establish an advisory committee. Members of such an advisory committee are not entitled to expense reimbursement.

(e) The voting members of the collaborative must consult with the student achievement council's office of student financial assistance on issues related to financial incentives, assistance, and supports.

(4)(a) Staff support for the collaborative must be provided by the Washington professional educator standards board, and from other state agencies, including the office of the superintendent of public instruction, if requested by the collaborative.

(b) The Washington professional educator standards board must convene the initial meeting of the collaborative within sixty days of the effective date of this section.

(5) The collaborative must contract with a nonprofit, nonpartisan institute that conducts independent, high quality research to improve education policy and practice and that works with policymakers, researchers, educators, and others to advance evidence-based policies that support equitable learning for each child for the purpose of consultation and guidance on meeting agendas and materials development, meeting facilitation, documenting collaborative discussions and recommendations, locating and summarizing useful policy and research documents, and drafting required reports.

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

(7)(a) By November 1, 2020, and in compliance with RCW 43.01.036, the collaborative shall submit a preliminary report to the education committees of the legislature that makes recommendations on the educator certificate types, tiers, and renewal issues described in subsection (2) of this section. The report must also describe the activities of the collaborative to date, and include any preliminary recommendations agreed to by the collaborative on other issues described in subsection (2) of this section.

(b) By November 1, 2021, and in compliance with RCW 43.01.036, the collaborative shall submit a final report to the education committees of the legislature that describes the activities of the collaborative since the preliminary report and makes recommendations on each issue described in subsection (2) of this section, including the fiscal implications of each recommendation at the state and local level. The report must also describe the expected efficiencies achieved by implementing the recommended comprehensive and coordinated system.

(8) This section expires July 1, 2022.

NEW SECTION. Sec. 403. 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. 404. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 25, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 8, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 213, Engrossed Second Substitute House Bill No. 1139 entitled:

"AN ACT Relating to expanding the current and future educator workforce supply through evidence-based strategies to improve and incentivize the recruitment and retention of highly effective educators, especially in high-need subject, grade-level, and geographic areas, and to establish a cohesive continuum of high quality professional learning from preparation programs to job embedded induction, mentoring, collaboration, and other professional development opportunities."

Section 213 provides conflicting direction to three state agencies (the Professional Educator Standards Board, the Washington Student Achievement Council and the Office of the Superintendent of Public Instruction) regarding financial aid program implementation, participant selection and identification of educator shortages. The section also conflicts with direction in other sections of the bill and is superfluous to implementation of the programs in the bill.

For these reasons I have vetoed Section 213 of Engrossed Second Substitute House Bill No. 1139.

With the exception of Section 213, Engrossed Second Substitute House Bill No. 1139 is approved."

CHAPTER 296

[Substitute House Bill 1155]

HEALTH CARE EMPLOYEES--MEAL AND REST BREAKS AND MANDATORY OVERTIME

AN ACT Relating to meal and rest breaks and mandatory overtime for certain health care employees; amending RCW 49.28.130 and 49.28.140; adding a new section to chapter 49.12 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 49.12 RCW to read as follows:

(1) An employer shall provide employees with meal and rest periods as required by law, subject to the following:

(a) Rest periods must be scheduled at any point during each work period during which the employee is required to receive a rest period;

(b) Employers must provide employees with uninterrupted meal and rest breaks. This subsection (1)(b) does not apply in the case of:

(i) An unforeseeable emergent circumstance, as defined in RCW 49.28.130; or

(ii) A clinical circumstance, as determined by the employee, employer, or employer's designee, that may lead to a significant adverse effect on the patient's condition:

(A) Without the knowledge, specific skill, or ability of the employee on break; or

(B) Due to an unforeseen or unavoidable event relating to patient care delivery requiring immediate action that could not be planned for by an employer;

(c) For any rest break that is interrupted before ten complete minutes by an employer or employer's designee under the provisions of (b)(ii) of this subsection, the employee must be given an additional ten minute uninterrupted rest break at the earliest reasonable time during the work period during which the employee is required to receive a rest period. If the elements of this subsection are met, a rest break shall be considered taken for the purposes of the minimum wage act as defined by chapter 49.46 RCW.

(2) The employer shall provide a mechanism to record when an employee misses a meal or rest period and maintain these records.

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

(a) "Employee" means a person who:

(i) Is employed by a health care facility;

(ii) Is involved in direct patient care activities or clinical services;

(iii) Receives an hourly wage or is covered by a collective bargaining agreement; and

(iv) Is a licensed practical nurse or registered nurse licensed under chapter 18.79 RCW, a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a nursing assistant-certified as defined in RCW 18.88A.020.

(b) "Employer" means hospitals licensed under chapter 70.41 RCW, except that the following hospitals are excluded until July 1, 2021:

(i) Hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4;

(ii) Hospitals with fewer than twenty-five acute care beds in operation; and

(iii) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals as of January 1, 2013, that: Have had less than one hundred fifty acute care licensed beds in fiscal year 2011; have a level III adult trauma service designation from the department of health as of January 1, 2014; and are owned and operated by the state or a political subdivision.

Sec. 2. RCW 49.28.130 and 2011 c 251 s 1 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 49.28.140 and 49.28.150 unless the context clearly requires otherwise.

(1)(a) "Employee" means a ~~((licensed practical nurse or a registered nurse licensed under chapter 18.79 RCW))~~ person who:

(i) Is employed by a health care facility ((who));

(ii) Is involved in direct patient care activities or clinical services ((and));

(iii) Receives an hourly wage or is covered by a collective bargaining agreement; and

(iv) Is either:

(A) A licensed practical nurse or registered nurse licensed under chapter 18.79 RCW; or

(B) Beginning July 1, 2020, a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a nursing assistant-certified as defined in RCW 18.88A.020.

(b) "Employee" does not mean a person who:

(i) Is employed by a health care facility as defined in subsection (3)(a)(v) of this section; and

(ii) Is a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a certified nursing assistant as defined in RCW 18.88A.020.

(2) "Employer" means an individual, partnership, association, corporation, the state, a political subdivision of the state, or person or group of persons, acting directly or indirectly in the interest of a health care facility.

(3)(a) "Health care facility" means the following facilities, or any part of the facility, including such facilities if owned and operated by a political subdivision or instrumentality of the state, that operate on a twenty-four hours per day, seven days per week basis:

(i) Hospices licensed under chapter 70.127 RCW;

(ii) Hospitals licensed under chapter 70.41 RCW, except that until July 1, 2021, the provisions of section 3, chapter . . . , Laws of 2019 (section 3 of this act) do not apply to:

(A) Hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4;

(B) Hospitals with fewer than twenty-five acute care beds in operation; and

(C) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals as of January 1, 2013, that: Have had less than one

hundred fifty acute care licensed beds in fiscal year 2011; have a level III adult trauma service designation from the department of health as of January 1, 2014; and are owned and operated by the state or a political subdivision;

- (iii) Rural health care facilities as defined in RCW 70.175.020;
- (iv) Psychiatric hospitals licensed under chapter 71.12 RCW; or
- (v) Facilities owned and operated by the department of corrections or by a governing unit as defined in RCW 70.48.020 in a correctional institution as defined in RCW 9.94.049 that provide health care services (~~to inmates as defined in RCW 72.09.015~~).

(b) If a nursing home regulated under chapter 18.51 RCW or a home health agency regulated under chapter 70.127 RCW is operating under the license of a health care facility, the nursing home or home health agency is considered part of the health care facility for the purposes of this subsection.

(4) "Overtime" means the hours worked in excess of an agreed upon, predetermined, regularly scheduled shift within a twenty-four hour period not to exceed twelve hours in a twenty-four hour period or eighty hours in a consecutive fourteen-day period.

(5) "On-call time" means time spent by an employee who is not working on the premises of the place of employment but who is compensated for availability or who, as a condition of employment, has agreed to be available to return to the premises of the place of employment on short notice if the need arises.

(6) "Reasonable efforts" means that the employer, to the extent reasonably possible, does all of the following but is unable to obtain staffing coverage:

(a) Seeks individuals to volunteer to work extra time from all available qualified staff who are working;

(b) Contacts qualified employees who have made themselves available to work extra time;

(c) Seeks the use of per diem staff; and

(d) Seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.

(7) "Unforeseeable emergent circumstance" means (a) any unforeseen declared national, state, or municipal emergency; (b) when a health care facility disaster plan is activated; or (c) any unforeseen disaster or other catastrophic event which substantially affects or increases the need for health care services.

Sec. 3. RCW 49.28.140 and 2002 c 112 s 3 are each amended to read as follows:

(1) No employee of a health care facility may be required to work overtime. Attempts to compel or force employees to work overtime are contrary to public policy, and any such requirement contained in a contract, agreement, or understanding is void.

(2) The acceptance by any employee of overtime is strictly voluntary, and the refusal of an employee to accept such overtime work is not grounds for discrimination, dismissal, discharge, or any other penalty, threat of reports for discipline, or employment decision adverse to the employee.

(3) This section does not apply to overtime work that occurs:

(a) Because of any unforeseeable emergent circumstance;

(b) Because of prescheduled on-call time, subject to the following:

(i) Mandatory prescheduled on-call time may not be used in lieu of scheduling employees to work regularly scheduled shifts when a staffing plan indicates the need for a scheduled shift; and

(ii) Mandatory prescheduled on-call time may not be used to address regular changes in patient census or acuity or expected increases in the number of employees not reporting for predetermined scheduled shifts;

(c) When the employer documents that the employer has used reasonable efforts to obtain staffing. An employer has not used reasonable efforts if overtime work is used to fill vacancies resulting from chronic staff shortages; or

(d) When an employee is required to work overtime to complete a patient care procedure already in progress where the absence of the employee could have an adverse effect on the patient.

(4) An employee accepting overtime who works more than twelve consecutive hours shall be provided the option to have at least eight consecutive hours of uninterrupted time off from work following the time worked.

NEW SECTION. Sec. 4. This act takes effect January 1, 2020.

Passed by the House April 24, 2019.

Passed by the Senate April 24, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 297

[Substitute House Bill 1196]

DAYLIGHT SAVING TIME--YEAR-ROUND OBSERVATION

AN ACT Relating to observing daylight saving time year round; amending RCW 35A.21.190; adding new sections to chapter 1.20 RCW; repealing RCW 1.20.050, 1.20.051, and 1.20.---; 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 1.20 RCW to read as follows:

Under federal law as it exists on the effective date of this section, states are not permitted to observe daylight saving time year round. If the United States congress amends federal law to authorize states to observe daylight saving time year round, the legislature intends that Washington state make daylight saving time the permanent time of the state and all of its political subdivisions.

NEW SECTION. Sec. 2. A new section is added to chapter 1.20 RCW to read as follows:

(1) The time of the state of Washington and all of its political subdivisions is Pacific daylight time throughout the calendar year, as determined by reference to coordinated universal time.

(2) Pacific daylight time within the state is that of the fifth zone designated by federal law as Pacific Standard Time, 15 U.S.C. Secs. 261 and 263, advanced by one hour.

Sec. 3. RCW 35A.21.190 and 1967 ex.s. c 119 s 35A.21.190 are each amended to read as follows:

No code city shall adopt any provision for the observance of daylight saving time other than as authorized by (~~RCW 1.20.050 and 1.20.051~~) section 2 of this act.

NEW SECTION. Sec. 4. The following acts or parts of acts are each repealed:

- (1) RCW 1.20.050 (Standard time—Daylight saving time) and 1953 c 2 s 1;
- (2) RCW 1.20.051 (Daylight saving time) and 2018 c 22 s 2, 1963 c 14 s 1, & 1961 c 3 s 1; and
- (3) RCW 1.20.--- and 2019 c . . . s 1 (section 1 of this act).

NEW SECTION. Sec. 5. (1) Sections 2 through 4 of this act take effect on the first Sunday in November following the effective date of federal authorization to observe daylight saving time year-round, except if the effective date of federal authorization to observe daylight saving time year-round occurs on or after October 1st but before the first Sunday in November, sections 2 through 4 of this act take effect on the first Sunday in November in the following year.

(2) The governor shall provide written notice of the effective date of sections 2 through 4 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the governor.

Passed by the House April 23, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 298

[Engrossed Second Substitute House Bill 1311]

COLLEGE BOUND SCHOLARSHIP--NINTH GRADE PLEDGE AND STATE NEED GRANT ELIGIBILITY

AN ACT Relating to college bound scholarship eligible students; amending RCW 28B.118.040, 28B.118.090, and 28B.92.060; reenacting and amending RCW 28B.118.010; and creating a new section.

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

Sec. 1. RCW 28B.118.010 and 2018 c 204 s 1 and 2018 c 12 s 1 are each reenacted and amended to read as follows:

The office of student financial assistance shall design the Washington college bound scholarship program in accordance with this section and in alignment with the state need grant program in chapter 28B.92 RCW unless otherwise provided in this section.

(1) "Eligible students" are those students who:

(a) Qualify for free or reduced-price lunches.

(i) If a student qualifies in the seventh or eighth grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(ii) Beginning in the 2019-20 academic year, if a student qualifies for free or reduced-price lunches in the ninth grade and was previously ineligible during the

seventh or eighth grade while he or she was a student in Washington, the student is eligible for the college bound scholarship program;

(b) Are dependent pursuant to chapter 13.34 RCW and:

(i) In grade seven through twelve; or

(ii) Are between the ages of eighteen and twenty-one and have not graduated from high school; or

(c) Were dependent pursuant to chapter 13.34 RCW and were adopted between the ages of fourteen and eighteen with a negotiated adoption agreement that includes continued eligibility for the Washington state college bound scholarship program pursuant to RCW 74.13A.025.

(2) Eligible students and the students' parents or guardians shall be notified of the student's eligibility for the Washington college bound scholarship program (~~(beginning in the student's seventh grade year)~~). Students and the students' parents or guardians shall also be notified of the requirements for award of the scholarship.

(3)(a) To be eligible for a Washington college bound scholarship, a student eligible under subsection (1)(a)(i) of this section must sign a pledge during seventh or eighth grade (~~(that includes)~~) or a student eligible under subsection (1)(a)(ii) of this section must sign a pledge during ninth grade. The pledge must include a commitment to graduate from high school with at least a C average and with no felony convictions. The pledge must be witnessed by a parent or guardian and forwarded to the office of student financial assistance by mail or electronically, as indicated on the pledge form.

(b)(i) Beginning in the 2018-19 academic year, the office of student financial assistance shall make multiple attempts to secure the signature of the student's parent or guardian for the purpose of witnessing the pledge.

(ii) If the signature of the student's parent or guardian is not obtained, the office of student financial assistance may partner with the school counselor or administrator to secure the parent's or guardian's signature to witness the pledge. The school counselor or administrator shall make multiple attempts via all phone numbers, email addresses, and mailing addresses on record to secure the parent's or guardian's signature. All attempts to contact the parent or guardian must be documented and maintained in the student's official file.

(iii) If a parent's or guardian's signature is still not obtained, the school counselor or administrator shall indicate to the office of student financial assistance the nature of the unsuccessful efforts to contact the student's parent or guardian and the reasons the signature is not available. Then the school counselor or administrator may witness the pledge unless the parent or guardian has indicated that he or she does not wish for the student to participate in the program.

(c) A student eligible under subsection (1)(b) of this section shall be automatically enrolled, with no action necessary by the student or the student's family, and the enrollment form must be forwarded by the department of social and health services to the office of student financial assistance by mail or electronically, as indicated on the form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b)(i) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (e). A student who is eligible to receive the Washington college bound scholarship because the student is a resident student under RCW 28B.15.012(2)(e) must provide the institution, as defined in RCW 28B.15.012, an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses.

(ii) For eligible children as defined in subsection (1)(b) and (c) of this section, to receive the Washington college bound scholarship, a student must have received a high school equivalency certificate as provided in RCW 28B.50.536 or have graduated with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (e).

For a student who does not meet the "C" average requirement, and who completes fewer than two quarters in the running start program, under chapter 28A.600 RCW, the student's first quarter of running start course grades must be excluded from the student's overall grade point average for purposes of determining their eligibility to receive the scholarship.

(5) A student's family income will be assessed upon graduation before awarding the scholarship. ~~((6))~~ If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

~~(6)~~(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington or the representative average of awards granted to students in public research universities in Washington in the 2014-15 academic year, whichever is greater.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington or the representative average of awards granted to students in public community and technical colleges in Washington in the 2014-15 academic year, whichever is greater.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans,

and, at the student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

Sec. 2. RCW 28B.118.040 and 2018 c 12 s 2 are each amended to read as follows:

The office of student financial assistance shall:

(1) With the assistance of the office of the superintendent of public instruction, implement and administer the Washington college bound scholarship program;

(2) Develop and distribute, to all schools with students enrolled in grades seven (~~or eight~~) through nine, a pledge form that can be completed and returned electronically or by mail by the student or the school to the office of student financial assistance;

(3) Develop and implement a student application, selection, and notification process for scholarships, which includes working with other state agencies, law enforcement, or the court system to verify that eligible students do not have felony convictions;

(4) Annually in March, with the assistance of the office of the superintendent of public instruction, distribute to tenth grade college bound scholarship students and their families: (a) Notification that, to qualify for the scholarship, a student's family income may not exceed sixty-five percent of the state median family income at graduation from high school; (b) the current year's value for sixty-five percent of the state median family income; and (c) a statement that a student should consult their school counselor if their family makes, or is projected to make, more than this value before the student graduates;

(5) Develop comprehensive social media outreach with grade-level specific information designed to keep students on track to graduate and leverage current tools such as the high school and beyond plan required by the state board of education and the ready set grad web site maintained by the student achievement council;

(6) Track scholarship recipients to ensure continued eligibility and determine student compliance for awarding of scholarships;

(7) Within existing resources, collaborate with college access providers and K-12, postsecondary, and youth-serving organizations to map and coordinate mentoring and advising resources across the state;

(8) Subject to appropriation, deposit funds into the state educational trust fund;

(9) Purchase tuition units under the advanced college tuition payment program in chapter 28B.95 RCW to be owned and held in trust by the office of student financial assistance, for the purpose of scholarship awards as provided for in this section; and

(10) Distribute scholarship funds, in the form of tuition units purchased under the advanced college tuition payment program in chapter 28B.95 RCW or through direct payments from the state educational trust fund, to institutions of higher education on behalf of scholarship recipients identified by the office, as long as recipients maintain satisfactory academic progress.

Sec. 3. RCW 28B.118.090 and 2015 c 244 s 6 are each amended to read as follows:

(1) Beginning January 1, 2015, and at a minimum every year thereafter, the student achievement council and all institutions of higher education eligible to participate in the college bound scholarship program shall ensure data needed to analyze and evaluate the effectiveness of the college bound scholarship program is promptly transmitted to the education data center created in RCW 43.41.400 so that it is available and easily accessible. The data to be reported should include but not be limited to:

(a) The number of students who sign up for the college bound scholarship program in seventh (~~(seventh)~~), eighth, or ninth grade;

(b) The number of college bound scholarship students who graduate from high school;

(c) The number of college bound scholarship students who enroll in postsecondary education;

(d) Persistence and completion rates of college bound scholarship recipients disaggregated by institutions of higher education;

(e) College bound scholarship recipient grade point averages;

(f) The number of college bound scholarship recipients who did not remain eligible and reasons for ineligibility;

(g) College bound scholarship program costs; and

(h) Impacts to the state need grant program.

(2) Beginning May 12, 2015, and at a minimum every December 1st thereafter, the student achievement council shall submit student unit record data for the college bound scholarship program applicants and recipients to the education data center.

Sec. 4. RCW 28B.92.060 and 2012 c 229 s 558 are each amended to read as follows:

In awarding need grants, the office shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the office, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The office shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to:

(a) College bound scholarship eligibility. Eligible students as defined in RCW 28B.118.010 who meet the requirements in RCW 28B.118.010(4)(b)(i) for the college bound scholarship may not be denied state need grant funding due to institutional policies or delayed awarding of college bound scholarship

students. College bound scholarship eligible students whose family income exceeds sixty-five percent of the state median family income, but who are eligible for the state need grant, shall be prioritized and awarded the maximum state need grant for which the student is eligible:

(b) Financial need as determined by the amount of the family contribution; and

~~((b))~~ (c) Other considerations, such as whether the student is a former foster youth, or is a placebound student who has completed an associate of arts or associate of science degree or its equivalent.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until disbursed, except that eligible former foster youth shall be assured receipt of a grant. The office, in consultation with four-year institutions of higher education, the council, and the state board for community and technical colleges, shall develop award criteria and methods of disbursement based on level of need, and not solely rely on a first-come, first-served basis.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the office. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.92.070.

(4) In computing financial need, the office shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. Any child support payments received by students who are parents attending less than half-time shall not be used in computing financial need.

(5)(a) A student who is enrolled in three to six credit-bearing quarter credits, or the equivalent semester credits, may receive a grant for up to one academic year before beginning a program that leads to a degree or certificate.

(b) An eligible student enrolled on a less-than-full-time basis shall receive a prorated portion of his or her state need grant for any academic period in which he or she is enrolled on a less-than-full-time basis, as long as funds are available.

(c) An institution of higher education may award a state need grant to an eligible student enrolled in three to six credit-bearing quarter credits, or the semester equivalent, on a provisional basis if:

(i) The student has not previously received a state need grant from that institution;

(ii) The student completes the required free application for federal student aid;

(iii) The institution has reviewed the student's financial condition, and the financial condition of the student's family if the student is a dependent student, and has determined that the student is likely eligible for a state need grant; and

(iv) The student has signed a document attesting to the fact that the financial information provided on the free application for federal student aid and any additional financial information provided directly to the institution is accurate and complete, and that the student agrees to repay the institution for the grant amount if the student submitted false or incomplete information.

(6) As used in this section, "former foster youth" means a person who is at least eighteen years of age, but not more than twenty-four years of age, who was a dependent of the department of social and health services at the time he or she attained the age of eighteen.

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 299

[Engrossed Substitute House Bill 1450]

NONCOMPETITION COVENANTS

AN ACT Relating to restraints, including noncompetition covenants, on persons engaging in lawful professions, trades, or businesses; adding a new chapter to Title 49 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that workforce mobility is important to economic growth and development. Further, the legislature finds that agreements limiting competition or hiring may be contracts of adhesion that may be unreasonable.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Earnings" means the compensation reflected on box one of the employee's United States internal revenue service form W-2 that is paid to an employee over the prior year, or portion thereof for which the employee was employed, annualized and calculated as of the earlier of the date enforcement of the noncompetition covenant is sought or the date of separation from employment. "Earnings" also means payments reported on internal revenue service form 1099-MISC for independent contractors.

(2) "Employee" and "employer" have the same meanings as in RCW 49.17.020.

(3) "Franchisor" and "franchisee" have the same meanings as in RCW 19.100.010.

(4) "Noncompetition covenant" includes every written or oral covenant, agreement, or contract by which an employee or independent contractor is prohibited or restrained from engaging in a lawful profession, trade, or business

of any kind. A "noncompetition covenant" does not include: (a) A nonsolicitation agreement; (b) a confidentiality agreement; (c) a covenant prohibiting use or disclosure of trade secrets or inventions; (d) a covenant entered into by a person purchasing or selling the goodwill of a business or otherwise acquiring or disposing of an ownership interest; or (e) a covenant entered into by a franchisee when the franchise sale complies with RCW 19.100.020(1).

(5) "Nonsolicitation agreement" means an agreement between an employer and employee that prohibits solicitation by an employee, upon termination of employment: (a) Of any employee of the employer to leave the employer; or (b) of any customer of the employer to cease or reduce the extent to which it is doing business with the employer.

(6) "Party seeking enforcement" means the named plaintiff or claimant in a proceeding to enforce a noncompetition covenant or the defendant in an action for declaratory relief.

NEW SECTION. Sec. 3. (1) A noncompetition covenant is void and unenforceable against an employee:

(a)(i) Unless the employer discloses the terms of the covenant in writing to the prospective employee no later than the time of the acceptance of the offer of employment and, if the agreement becomes enforceable only at a later date due to changes in the employee's compensation, the employer specifically discloses that the agreement may be enforceable against the employee in the future; or

(ii) If the covenant is entered into after the commencement of employment, unless the employer provides independent consideration for the covenant;

(b) Unless the employee's earnings from the party seeking enforcement, when annualized, exceed one hundred thousand dollars per year. This dollar amount must be adjusted annually in accordance with section 5 of this act;

(c) If the employee is terminated as the result of a layoff, unless enforcement of the noncompetition covenant includes compensation equivalent to the employee's base salary at the time of termination for the period of enforcement minus compensation earned through subsequent employment during the period of enforcement.

(2) A court or arbitrator must presume that any noncompetition covenant with a duration exceeding eighteen months after termination of employment is unreasonable and unenforceable. A party seeking enforcement may rebut the presumption by proving by clear and convincing evidence that a duration longer than eighteen months is necessary to protect the party's business or goodwill.

NEW SECTION. Sec. 4. (1) A noncompetition covenant is void and unenforceable against an independent contractor unless the independent contractor's earnings from the party seeking enforcement exceed two hundred fifty thousand dollars per year. This dollar amount must be adjusted annually in accordance with section 5 of this act.

(2) The duration of a noncompetition covenant between a performer and a performance space, or a third party scheduling the performer for a performance space, must not exceed three calendar days.

NEW SECTION. Sec. 5. The dollar amounts specified in sections 3 and 4 of this act must be adjusted annually for inflation. Annually on September 30th the department of labor and industries must adjust the dollar amounts specified

in this section by calculating to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the twelve months prior to each September 1st as calculated by the United States department of labor. The adjusted dollar amount calculated under this section takes effect on the following January 1st.

NEW SECTION. Sec. 6. A provision in a noncompetition covenant signed by an employee or independent contractor who is Washington-based is void and unenforceable:

(1) If the covenant requires the employee or independent contractor to adjudicate a noncompetition covenant outside of this state; and

(2) To the extent it deprives the employee or independent contractor of the protections or benefits of this chapter.

NEW SECTION. Sec. 7. (1) No franchisor may restrict, restrain, or prohibit in any way a franchisee from soliciting or hiring any employee of a franchisee of the same franchisor.

(2) No franchisor may restrict, restrain, or prohibit in any way a franchisee from soliciting or hiring any employee of the franchisor.

NEW SECTION. Sec. 8. (1) Subject to subsection (2) of this section, an employer may not restrict, restrain, or prohibit an employee earning less than twice the applicable state minimum hourly wage from having an additional job, supplementing their income by working for another employer, working as an independent contractor, or being self-employed.

(2)(a) This section shall not apply to any such additional services when the specific services to be offered by the employee raise issues of safety for the employee, coworkers, or the public, or interfere with the reasonable and normal scheduling expectations of the employer.

(b) This section does not alter the obligations of an employee to an employer under existing law, including the common law duty of loyalty and laws preventing conflicts of interest and any corresponding policies addressing such obligations.

NEW SECTION. Sec. 9. (1) Upon a violation of this chapter, the attorney general, on behalf of a person or persons, may pursue any and all relief. A person aggrieved by a noncompetition covenant to which the person is a party may bring a cause of action to pursue any and all relief provided for in subsections (2) and (3) of this section.

(2) If a court or arbitrator determines that a noncompetition covenant violates this chapter, the violator must pay the aggrieved person the greater of his or her actual damages or a statutory penalty of five thousand dollars, plus reasonable attorneys' fees, expenses, and costs incurred in the proceeding.

(3) If a court or arbitrator reforms, rewrites, modifies, or only partially enforces any noncompetition covenant, the party seeking enforcement must pay the aggrieved person the greater of his or her actual damages or a statutory penalty of five thousand dollars, plus reasonable attorneys' fees, expenses, and costs incurred in the proceeding.

(4) A cause of action may not be brought regarding a noncompetition covenant signed prior to the effective date of this section if the noncompetition covenant is not being enforced.

NEW SECTION. Sec. 10. (1)(a) Subject to (b) of this subsection, this chapter displaces conflicting tort, restitutionary, contract, and other laws of this state pertaining to liability for competition by employees or independent contractors with their employers or principals, as appropriate.

(b) This chapter does not amend or modify chapter 19.108 RCW.

(2) Except as otherwise provided in this chapter, this chapter does not revoke, modify, or impede the development of the common law.

NEW SECTION. Sec. 11. This chapter applies to all proceedings commenced on or after the effective date of this section, regardless of when the cause of action arose. To this extent, this chapter applies retroactively, but in all other respects it applies prospectively.

NEW SECTION. Sec. 12. This chapter is an exercise of the state's police power and shall be construed liberally for the accomplishment of its purposes.

NEW SECTION. Sec. 13. This act takes effect January 1, 2020.

NEW SECTION. Sec. 14. 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. 15. Sections 1 through 13 of this act constitute a new chapter in Title 49 RCW.

Passed by the House March 12, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 300

[House Bill 1505]

CHILD VICTIMS OF SEXUAL ASSAULT--CONFIDENTIALITY

AN ACT Relating to confidential information of child victims of sexual assault; amending RCW 10.97.130; and reenacting and amending RCW 42.56.240.

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

Sec. 1. RCW 42.56.240 and 2018 c 285 s 1 and 2018 c 171 s 7 are each reenacted and amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the

commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the specific details that describe an alleged or proven child victim of sexual assault under age eighteen, or the identity or contact information of an alleged or proven child victim((s)) of sexual assault who ((are)) is under age eighteen. Identifying information ((means)) includes the child victim's name, addresses, location, photograph, and in cases in which the child victim is a relative ((or)), stepchild, or stepsibling of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Contact information includes phone numbers, email addresses, social media profiles, and usernames and passwords;

(6) Information contained in a local or regionally maintained gang database as well as the statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and email address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business;

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822;

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020;

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates;

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030;

(14) Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.

(a) Disclosure of a body worn camera recording is presumed to be highly offensive to a reasonable person under RCW 42.56.050 to the extent it depicts:

(i)(A) Any areas of a medical facility, counseling, or therapeutic program office where:

(I) A patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment; or

(II) Health care information is shared with patients, their families, or among the care team; or

(B) Information that meets the definition of protected health information for purposes of the health insurance portability and accountability act of 1996 or health care information for purposes of chapter 70.02 RCW;

(ii) The interior of a place of residence where a person has a reasonable expectation of privacy;

(iii) An intimate image;

(iv) A minor;

(v) The body of a deceased person;

(vi) The identity of or communications from a victim or witness of an incident involving domestic violence as defined in RCW 10.99.020 or sexual assault as defined in RCW 70.125.030, or disclosure of intimate images as defined in RCW 9A.86.010. If at the time of recording the victim or witness indicates a desire for disclosure or nondisclosure of the recorded identity or communications, such desire shall govern; or

(vii) The identifiable location information of a community-based domestic violence program as defined in RCW 70.123.020, or emergency shelter as defined in RCW 70.123.020.

(b) The presumptions set out in (a) of this subsection may be rebutted by specific evidence in individual cases.

(c) In a court action seeking the right to inspect or copy a body worn camera recording, a person who prevails against a law enforcement or corrections agency that withholds or discloses all or part of a body worn camera recording pursuant to (a) of this subsection is not entitled to fees, costs, or awards pursuant to RCW 42.56.550 unless it is shown that the law enforcement or corrections agency acted in bad faith or with gross negligence.

(d) A request for body worn camera recordings must:

(i) Specifically identify a name of a person or persons involved in the incident;

(ii) Provide the incident or case number;

(iii) Provide the date, time, and location of the incident or incidents; or

(iv) Identify a law enforcement or corrections officer involved in the incident or incidents.

(e)(i) A person directly involved in an incident recorded by the requested body worn camera recording, an attorney representing a person directly involved in an incident recorded by the requested body worn camera recording, a person

or his or her attorney who requests a body worn camera recording relevant to a criminal case involving that person, or the executive director from either the Washington state commission on African-American affairs, Asian Pacific American affairs, or Hispanic affairs, has the right to obtain the body worn camera recording, subject to any exemption under this chapter or any applicable law. In addition, an attorney who represents a person regarding a potential or existing civil cause of action involving the denial of civil rights under the federal or state Constitution, or a violation of a United States department of justice settlement agreement, has the right to obtain the body worn camera recording if relevant to the cause of action, subject to any exemption under this chapter or any applicable law. The attorney must explain the relevancy of the requested body worn camera recording to the cause of action and specify that he or she is seeking relief from redaction costs under this subsection (14)(e).

(ii) A law enforcement or corrections agency responding to requests under this subsection (14)(e) may not require the requesting individual to pay costs of any redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of a body worn camera recording.

(iii) A law enforcement or corrections agency may require any person requesting a body worn camera recording pursuant to this subsection (14)(e) to identify himself or herself to ensure he or she is a person entitled to obtain the body worn camera recording under this subsection (14)(e).

(f)(i) A law enforcement or corrections agency responding to a request to disclose body worn camera recordings may require any requester not listed in (e) of this subsection to pay the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body worn camera recording prior to disclosure only to the extent necessary to comply with the exemptions in this chapter or any applicable law.

(ii) An agency that charges redaction costs under this subsection (14)(f) must use redaction technology that provides the least costly commercially available method of redacting body worn camera recordings, to the extent possible and reasonable.

(iii) In any case where an agency charges a requestor for the costs of redacting a body worn camera recording under this subsection (14)(f), the time spent on redaction of the recording shall not count towards the agency's allocation of, or limitation on, time or costs spent responding to public records requests under this chapter, as established pursuant to local ordinance, policy, procedure, or state law.

(g) For purposes of this subsection (14):

(i) "Body worn camera recording" means a video and/or sound recording that is made by a body worn camera attached to the uniform or eyewear of a law enforcement or corrections officer while in the course of his or her official duties; and

(ii) "Intimate image" means an individual or individuals engaged in sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation, or an individual's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or postpubescent female nipple.

(h) Nothing in this subsection shall be construed to restrict access to body worn camera recordings as otherwise permitted by law for official or recognized civilian and accountability bodies or pursuant to any court order.

(i) Nothing in this section is intended to modify the obligations of prosecuting attorneys and law enforcement under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v. Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and the relevant Washington court criminal rules and statutes.

(j) A law enforcement or corrections agency must retain body worn camera recordings for at least sixty days and thereafter may destroy the records in accordance with the applicable records retention schedule;

(15) Any records and information contained within the statewide sexual assault kit tracking system established in RCW 43.43.545;

(16)(a) Survivor communications with, and survivor records maintained by, campus-affiliated advocates.

(b) Nothing in this subsection shall be construed to restrict access to records maintained by a campus-affiliated advocate in the event that:

(i) The survivor consents to inspection or copying;

(ii) There is a clear, imminent risk of serious physical injury or death of the survivor or another person;

(iii) Inspection or copying is required by federal law; or

(iv) A court of competent jurisdiction mandates that the record be available for inspection or copying.

(c) "Campus-affiliated advocate" and "survivor" have the definitions in RCW 28B.112.030;

(17) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs and information and records prepared, owned, used, or retained by the Washington state patrol pursuant to chapter 261, Laws of 2017; and

(18) Any and all audio or video recordings of child forensic interviews as defined in chapter 26.44 RCW. Such recordings are confidential and may only be disclosed pursuant to a court order entered upon a showing of good cause and with advance notice to the child's parent, guardian, or legal custodian. However, if the child is an emancipated minor or has attained the age of majority as defined in RCW 26.28.010, advance notice must be to the child. Failure to disclose an audio or video recording of a child forensic interview as defined in chapter 26.44 RCW is not grounds for penalties or other sanctions available under this chapter.

Sec. 2. RCW 10.97.130 and 1992 c 188 s 8 are each amended to read as follows:

(1) Information ((identifying)) revealing the specific details that describe the alleged or proven child victim of sexual assault under age eighteen, or the identity or contact information of an alleged or proven child victim((s)) under age eighteen ((who are victims of sexual assaults)) is confidential and not subject to release to the press or public without the permission of the child victim ((or)) and the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative ((or)), stepchild, or stepsibling of the alleged perpetrator, identification of the relationship between the child and the alleged

perpetrator. Contact information includes phone numbers, email addresses, social media profiles, and usernames and passwords. Contact information or information identifying the child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault. Prior to release of any criminal history record information, the releasing agency shall delete any contact information or information identifying a child victim of sexual assault from the information except as provided in this section.

(2) This section does not apply to court documents or other materials admitted in open judicial proceedings.

Passed by the House April 23, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 8, 2019.

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CHAPTER 301

[Engrossed House Bill 1564]

NURSING FACILITY MEDICAID PAYMENT RATE METHODOLOGY

AN ACT Relating to the nursing facility medicaid payment system; amending RCW 74.46.561 and 74.42.010; and adding a new section to chapter 74.46 RCW.

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

Sec. 1. RCW 74.46.561 and 2017 c 286 s 2 are each amended to read as follows:

(1) The legislature adopts a new system for establishing nursing home payment rates beginning July 1, 2016. Any payments to nursing homes for services provided after June 30, 2016, must be based on the new system. The new system must be designed in such a manner as to decrease administrative complexity associated with the payment methodology, reward nursing homes providing care for high acuity residents, incentivize quality care for residents of nursing homes, and establish minimum staffing standards for direct care.

(2) The new system must be based primarily on industry-wide costs, and have three main components: Direct care, indirect care, and capital.

(3) The direct care component must include the direct care and therapy care components of the previous system, along with food, laundry, and dietary services. Direct care must be paid at a fixed rate, based on one hundred percent or greater of statewide case mix neutral median costs, but shall be set so that a nursing home provider's direct care rate does not exceed one hundred eighteen percent of its base year's direct care allowable costs except if the provider is below the minimum staffing standard established in RCW 74.42.360(2). Direct care must be performance-adjusted for acuity every six months, using case mix principles. Direct care must be regionally adjusted using county wide wage index information available through the United States department of labor's bureau of labor statistics. There is no minimum occupancy for direct care. The direct care component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(4) The indirect care component must include the elements of administrative expenses, maintenance costs, and housekeeping services from the previous

system. A minimum occupancy assumption of ninety percent must be applied to indirect care. Indirect care must be paid at a fixed rate, based on ninety percent or greater of statewide median costs. The indirect care component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(5) The capital component must use a fair market rental system to set a price per bed. The capital component must be adjusted for the age of the facility, and must use a minimum occupancy assumption of ninety percent.

(a) Beginning July 1, 2016, the fair rental rate allocation for each facility must be determined by multiplying the allowable nursing home square footage in (c) of this subsection by the ~~((RS means))~~ RSMMeans rental rate in (d) of this subsection and by the number of licensed beds yielding the gross unadjusted building value. An equipment allowance of ten percent must be added to the unadjusted building value. The sum of the unadjusted building value and equipment allowance must then be reduced by the average age of the facility as determined by (e) of this subsection using a depreciation rate of one and one-half percent. The depreciated building and equipment plus land valued at ten percent of the gross unadjusted building value before depreciation must then be multiplied by the rental rate at seven and one-half percent to yield an allowable fair rental value for the land, building, and equipment.

(b) The fair rental value determined in (a) of this subsection must be divided by the greater of the actual total facility census from the prior full calendar year or imputed census based on the number of licensed beds at ninety percent occupancy.

(c) For the rate year beginning July 1, 2016, all facilities must be reimbursed using four hundred square feet. For the rate year beginning July 1, 2017, allowable nursing facility square footage must be determined using the total nursing facility square footage as reported on the medicaid cost reports submitted to the department in compliance with this chapter. The maximum allowable square feet per bed may not exceed four hundred fifty.

(d) Each facility must be paid at eighty-three percent or greater of the median nursing facility ~~((RS means))~~ RSMMeans construction index value per square foot ~~((for Washington state))~~. The department may use updated ~~((RS means))~~ RSMMeans construction index information when more recent square footage data becomes available. The statewide value per square foot must be indexed based on facility zip code by multiplying the statewide value per square foot times the appropriate zip code based index. For the purpose of implementing this section, the value per square foot effective July 1, 2016, must be set so that the weighted average ~~((FRV [fair rental value]))~~ fair rental value rate is not less than ten dollars and eighty cents ~~((ppd [per patient day]))~~ per patient day. The capital component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(e) The average age is the actual facility age reduced for significant renovations. Significant renovations are defined as those renovations that exceed two thousand dollars per bed in a calendar year as reported on the annual cost report submitted in accordance with this chapter. For the rate beginning July 1, 2016, the department shall use renovation data back to 1994 as submitted on facility cost reports. Beginning July 1, 2016, facility ages must be reduced in

future years if the value of the renovation completed in any year exceeds two thousand dollars times the number of licensed beds. The cost of the renovation must be divided by the accumulated depreciation per bed in the year of the renovation to determine the equivalent number of new replacement beds. The new age for the facility is a weighted average with the replacement bed equivalents reflecting an age of zero and the existing licensed beds, minus the new bed equivalents, reflecting their age in the year of the renovation. At no time may the depreciated age be less than zero or greater than forty-four years.

(f) A nursing facility's capital component rate allocation must be rebased annually, effective July 1, 2016, in accordance with this section and this chapter.

(g) For the purposes of this subsection (5), "RSMMeans" means building construction costs data as published by Gordian.

(6) A quality incentive must be offered as a rate enhancement beginning July 1, 2016.

(a) An enhancement no larger than five percent and no less than one percent of the statewide average daily rate must be paid to facilities that meet or exceed the standard established for the quality incentive. All providers must have the opportunity to earn the full quality incentive payment.

(b) The quality incentive component must be determined by calculating an overall facility quality score composed of four to six quality measures. For fiscal year 2017 there shall be four quality measures, and for fiscal year 2018 there shall be six quality measures. Initially, the quality incentive component must be based on minimum data set quality measures for the percentage of long-stay residents who self-report moderate to severe pain, the percentage of high-risk long-stay residents with pressure ulcers, the percentage of long-stay residents experiencing one or more falls with major injury, and the percentage of long-stay residents with a urinary tract infection. Quality measures must be reviewed on an annual basis by a stakeholder work group established by the department. Upon review, quality measures may be added or changed. The department may risk adjust individual quality measures as it deems appropriate.

(c) The facility quality score must be point based, using at a minimum the facility's most recent available three-quarter average (~~((CMS [centers for medicare and medicaid services]))~~) centers for medicare and medicaid services quality data. Point thresholds for each quality measure must be established using the corresponding statistical values for the quality measure (~~((QM))~~) point determinants of eighty ((QM)) quality measure points, sixty ((QM)) quality measure points, forty ((QM)) quality measure points, and twenty ((QM)) quality measure points, identified in the most recent available five-star quality rating system technical user's guide published by the center for medicare and medicaid services.

(d) Facilities meeting or exceeding the highest performance threshold (top level) for a quality measure receive twenty-five points. Facilities meeting the second highest performance threshold receive twenty points. Facilities meeting the third level of performance threshold receive fifteen points. Facilities in the bottom performance threshold level receive no points. Points from all quality measures must then be summed into a single aggregate quality score for each facility.

(e) Facilities receiving an aggregate quality score of eighty percent of the overall available total score or higher must be placed in the highest tier (tier V),

facilities receiving an aggregate score of between seventy and seventy-nine percent of the overall available total score must be placed in the second highest tier (tier IV), facilities receiving an aggregate score of between sixty and sixty-nine percent of the overall available total score must be placed in the third highest tier (tier III), facilities receiving an aggregate score of between fifty and fifty-nine percent of the overall available total score must be placed in the fourth highest tier (tier II), and facilities receiving less than fifty percent of the overall available total score must be placed in the lowest tier (tier I).

(f) The tier system must be used to determine the amount of each facility's per patient day quality incentive component. The per patient day quality incentive component for tier IV is seventy-five percent of the per patient day quality incentive component for tier V, the per patient day quality incentive component for tier III is fifty percent of the per patient day quality incentive component for tier V, and the per patient day quality incentive component for tier II is twenty-five percent of the per patient day quality incentive component for tier V. Facilities in tier I receive no quality incentive component.

(g) Tier system payments must be set in a manner that ensures that the entire biennial appropriation for the quality incentive program is allocated.

(h) Facilities with insufficient three-quarter average (~~CMS [centers for medicare and medicaid services]~~) centers for medicare and medicaid services quality data must be assigned to the tier corresponding to their five-star quality rating. Facilities with a five-star quality rating must be assigned to the highest tier (tier V) and facilities with a one-star quality rating must be assigned to the lowest tier (tier I). The use of a facility's five-star quality rating shall only occur in the case of insufficient (~~CMS [centers for medicare and medicaid services]~~) centers for medicare and medicaid services minimum data set information.

(i) The quality incentive rates must be adjusted semiannually on July 1 and January 1 of each year using, at a minimum, the most recent available three-quarter average (~~CMS [centers for medicare and medicaid services]~~) centers for medicare and medicaid services quality data.

(j) Beginning July 1, 2017, the percentage of short-stay residents who newly received an antipsychotic medication must be added as a quality measure. The department must determine the quality incentive thresholds for this quality measure in a manner consistent with those outlined in (b) through (h) of this subsection using the centers for medicare and medicaid services quality data.

(k) Beginning July 1, 2017, the percentage of direct care staff turnover must be added as a quality measure using the centers for medicare and medicaid services' payroll-based journal and nursing home facility payroll data. Turnover is defined as an employee departure. The department must determine the quality incentive thresholds for this quality measure using data from the centers for medicare and medicaid services' payroll-based journal, unless such data is not available, in which case the department shall use direct care staffing turnover data from the most recent medicaid cost report.

(7) Reimbursement of the safety net assessment imposed by chapter 74.48 RCW and paid in relation to medicaid residents must be continued.

(8) The direct care and indirect care components must be rebased in even-numbered years, beginning with rates paid on July 1, 2016. Rates paid on July 1, 2016, must be based on the 2014 calendar year cost report. On a percentage basis, after rebasing, the department must confirm that the statewide average

daily rate has increased at least as much as the average rate of inflation, as determined by the skilled nursing facility market basket index published by the centers for medicare and medicaid services, or a comparable index. If after rebasing, the percentage increase to the statewide average daily rate is less than the average rate of inflation for the same time period, the department is authorized to increase rates by the difference between the percentage increase after rebasing and the average rate of inflation.

(9) The direct care component provided in subsection (3) of this section is subject to the reconciliation and settlement process provided in RCW 74.46.022(6). Beginning July 1, 2016, pursuant to rules established by the department, funds that are received through the reconciliation and settlement process provided in RCW 74.46.022(6) must be used for technical assistance, specialized training, or an increase to the quality enhancement established in subsection (6) of this section. The legislature intends to review the utility of maintaining the reconciliation and settlement process under a price-based payment methodology, and may discontinue the reconciliation and settlement process after the 2017-2019 fiscal biennium.

(10) Compared to the rate in effect June 30, 2016, including all cost components and rate add-ons, no facility may receive a rate reduction of more than one percent on July 1, 2016, more than two percent on July 1, 2017, or more than five percent on July 1, 2018. To ensure that the appropriation for nursing homes remains cost neutral, the department is authorized to cap the rate increase for facilities in fiscal years 2017, 2018, and 2019.

NEW SECTION. Sec. 2. A new section is added to chapter 74.46 RCW to read as follows:

Services provided by or through facilities of the Indian health service or facilities operated by a tribe or tribal organization pursuant to 42 C.F.R. Part 136 may be paid at the applicable rates published in the federal register or at a cost-based rate applicable to such types of facilities as approved by the centers for medicare and medicaid services and may be exempted from the rate determination set forth in this chapter. The department may enact emergency rules to implement this section.

Sec. 3. RCW 74.42.010 and 2017 c 200 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) "Department" means the department of social and health services and the department's employees.

(2) "Direct care staff" means the staffing domain identified and defined in the center for medicare and medicaid service's five-star quality rating system and as reported through the center for medicare and medicaid service's payroll-based journal. For purposes of calculating hours per resident day minimum staffing standards for facilities with sixty-one or more licensed beds, the director of nursing services classification (job title code five), as identified in the center for medicare and medicaid service's payroll-based journal, shall not be used. For facilities with sixty or fewer beds the director of nursing services classification (job title code five) shall be included in calculating hours per resident day minimum staffing standards.

(3) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(4) "Geriatric behavioral health worker" means a person who has received specialized training devoted to mental illness and treatment of older adults.

(5) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

(6) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(7) "Nurse practitioner" means a person licensed to practice advanced registered nursing under chapter 18.79 RCW.

(8) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.

(9) "Physician" means a person practicing pursuant to chapter 18.57 or 18.71 RCW, including, but not limited to, a physician employed by the facility as provided in chapter 18.51 RCW.

(10) "Physician assistant" means a person practicing pursuant to chapter 18.57A or 18.71A RCW.

(11) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) An intellectual disabilities professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with persons with intellectual or developmental disabilities.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker as defined in RCW 18.320.010(2).

(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

(12) "Registered nurse" means a person licensed to practice registered nursing under chapter 18.79 RCW.

(13) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010.

Passed by the House April 23, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 8, 2019.

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CHAPTER 302

[Second Substitute House Bill 1668]

WASHINGTON HEALTH CORPS

AN ACT Relating to creating the Washington health corps to support health care professionals who provide service in underserved communities; amending RCW 28B.115.010, 28B.115.020, 28B.115.030, 28B.115.040, 28B.115.050, 28B.115.070, 28B.115.080, 28B.115.090, 28B.115.100, 28B.115.110, and 28B.115.120; adding a new section to chapter 28B.115 RCW; and creating a new section.

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

Sec. 1. RCW 28B.115.010 and 1989 1st ex.s. c 9 s 716 are each amended to read as follows:

The legislature finds that changes in demographics, the delivery of health care services, and an escalation in the cost of educating health professionals has resulted in shortages of health professionals. A poor distribution of health care professionals has resulted in a surplus of some professionals in some areas of the state and a shortage of others in other parts of the state, such as in the more rural areas and in behavioral health services. The high cost of health professional education requires that health care practitioners command higher incomes to repay the financial obligations incurred to obtain the required training. Health professional shortage areas are often areas that have troubled economies and lower per capita incomes. These areas often require more services because the health care needs are greater due to poverty or because the areas are difficult to service due to geographic circumstances. The salary potentials for shortage areas are often not as favorable when compared to nonshortage areas and practitioners are unable to serve. The legislature further finds that encouraging health professionals to serve in shortage areas is essential to assure continued access to health care for persons living in these parts of the state.

The legislature also finds that one in five adults in the United States experiences mental illness in any given year, but only forty-one percent of adults with a mental health condition received mental health services in 2016, according to the national institute of mental health. The children's mental health work group found that in 2013, only forty percent of children on medicaid with mental health treatment needs were receiving services. Individuals seeking behavioral health services may have trouble receiving the help they need from health care professionals because behavioral health services are limited due to workforce shortages of behavioral health providers. The legislature further finds that encouraging more health care professionals to practice behavioral health in areas with limited services would benefit the state by creating greater access to behavioral health services and by having more health care professionals experienced in providing behavioral health services.

Therefore, the legislature intends to establish the Washington health corps to encourage more health care professionals to work in underserved areas by providing loan repayment and conditional scholarships in return for completing a service commitment.

Sec. 2. RCW 28B.115.020 and 2013 c 19 s 46 are each amended to read as follows:

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

(1) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the pharmacy quality assurance commission under chapter 18.64 RCW and designated by the department in RCW 28B.115.070 as a profession having shortages of credentialed health care professionals in the state.

(2) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the pharmacy quality assurance commission under chapter 18.64 RCW.

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

(4) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(5) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the office.

(6) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(7) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area or an underserved behavioral health area in the state of Washington in lieu of monetary repayment.

(8) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(9) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area or an underserved behavioral health area as defined by the department.

(10) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

(11) "Office" means the office of student financial assistance.

(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an underserved behavioral health area or an eligible student who has received a scholarship under this program.

(13) (~~"Program" means the health professional loan repayment and scholarship program.~~)

(14) "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area or an

underserved behavioral health area for a period to be established as provided for in this chapter.

~~((15))~~(14) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

~~((16))~~(15) "Satisfied" means paid-in-full.

~~((17))~~(16) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area or an underserved behavioral health area.

~~((18))~~(17) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments.

(18) "Underserved behavioral health area" means a geographic area, population, or facility that has a shortage of health care professionals providing behavioral health services, as determined by the department.

Sec. 3. RCW 28B.115.030 and 2013 c 298 s 1 are each amended to read as follows:

The Washington health corps is the state's initiative to encourage health care professionals to work in underserved communities. In exchange for service, the health care professional receives assistance with higher education, in the form of loan repayment or a conditional scholarship. The Washington health corps consists of the health professional loan repayment and scholarship program and the behavioral health loan repayment program.

(1) The health professional loan repayment and scholarship program is established for credentialed health professionals and residents serving in health professional shortage areas.

(2) The behavioral health loan repayment program is established for credentialed health professionals serving in underserved behavioral health areas.

(3) The health professional loan repayment and scholarship and the behavioral health loan repayment programs shall be administered by the office. In administering ~~((this))~~the programs, the office shall:

~~((1))~~(a)(i) Select credentialed health care professionals and residents to participate in the loan repayment portion ~~((of the loan repayment and scholarship program and select eligible students to participate))~~and in the scholarship portion of the health professional loan repayment and scholarship program; and

(ii) Select credentialed health care participants to participate in the behavioral health loan repayment program;

~~((2))~~(b) Adopt rules and develop guidelines to administer the programs;

~~((3))~~(c) Collect and manage repayments from participants who do not meet their service obligations under this chapter;

~~((4))~~(d) Publicize the program, particularly to maximize participation among individuals in shortage and underserved areas and among populations expected to experience the greatest growth in the workforce;

~~((5))~~(e) Solicit and accept grants and donations from public and private sources for the programs;

~~((6))~~(f) Use a competitive procurement to contract with a fund-raiser to solicit and accept grants and donations from private sources for the programs. The fund-raiser shall be paid on a contingency fee basis on a sliding scale but must not exceed fifteen percent of the total amount raised for the programs each year. The fund-raiser shall not be a registered state lobbyist; and

~~((7))~~(g) Develop criteria for a contract for service in lieu of the service obligation where appropriate, that may be a combination of service and payment.

Sec. 4. RCW 28B.115.040 and 1991 c 332 s 17 are each amended to read as follows:

The department may provide technical assistance to rural communities desiring to become sponsoring communities for the purposes of identification of prospective students for the health professional loan repayment and scholarship program, assisting prospective students to apply to an eligible education and training program, making formal agreements with prospective students to provide credentialed health care services in the community, forming agreements between rural communities in a service area to share credentialed health care professionals, and fulfilling any matching requirements.

Sec. 5. RCW 28B.115.050 and 2011 1st sp.s. c 11 s 206 are each amended to read as follows:

The office shall establish a planning committee to assist it in developing criteria for the selection of participants for both the health professional loan repayment and scholarship program and the behavioral health loan repayment program. The office shall include on the planning committee representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the state board for community and technical colleges, the superintendent of public instruction, institutions of higher education, representatives from the behavioral health and public health fields, and other appropriate public and private agencies and organizations. The criteria may require that some of the participants meet the definition of "needy student" under RCW 28B.92.030.

Sec. 6. RCW 28B.115.070 and 2017 3rd sp.s. c 1 s 958 are each amended to read as follows:

~~((4))~~ After June 1, 1992, the department, in consultation with the office and the department of social and health services, shall:

~~((a))~~(1) Determine eligible credentialed health care professions for the purposes of the health professional loan repayment and scholarship program and the behavioral health loan repayment program authorized by this chapter. Eligibility shall be based upon an assessment that determines that there is a shortage or insufficient availability of a credentialed profession so as to jeopardize patient care and pose a threat to the public health and safety. The department shall consider the relative degree of shortages among professions when determining eligibility. The department may add or remove professions from eligibility based upon the determination that a profession is no longer in shortage. Should a profession no longer be eligible, participants or eligible students who have received scholarships shall be eligible to continue to receive scholarships or loan repayments until they are no longer eligible or until their service obligation has been completed;

~~((b))~~(2) Determine health professional shortage areas for each of the eligible credentialed health care professions; and

(3) Determine underserved behavioral health areas for each of the eligible credentialed health care professions.

~~((2) For the 2017-2019 fiscal biennium, consideration for eligibility shall also be given to registered nursing students who have been accepted into an eligible nursing education program and have declared an intention to teach nursing upon completion of the nursing education program.))~~

Sec. 7. RCW 28B.115.080 and 2011 1st sp.s. c 11 s 208 are each amended to read as follows:

After June 1, 1992, the office, in consultation with the department and the department of social and health services, shall:

(1) Establish the annual award amount for each credentialed health care profession which shall be based upon an assessment of reasonable annual eligible expenses involved in training and education for each credentialed health care profession for both the health professional loan repayment and scholarship program and the behavioral health loan repayment program. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall be established by the office for each eligible health profession. The awards shall not be paid for more than a maximum of five years per individual;

(2) Determine any scholarship awards for prospective physicians in such a manner to require the recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The office may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(3) Establish the required service obligation for each credentialed health care profession, which shall be no less than three years or no more than five years, for the health professional loan repayment and scholarship program and the behavioral health loan repayment program. The required service obligation may be based upon the amount of the scholarship or loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

(4) Determine eligible education and training programs for purposes of the scholarship portion of the health professional loan repayment and scholarship program;

(5) Honor loan repayment and scholarship contract terms negotiated between the office and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter 28B.115(~~(-28B.104,))~~) or 70.180 RCW.

Sec. 8. RCW 28B.115.090 and 2011 1st sp.s. c 11 s 209 are each amended to read as follows:

(1) The office may grant loan repayment and scholarship awards to eligible participants from the funds appropriated ~~((for this purpose))~~ to the health professional loan repayment and scholarship program, or from any private or public funds given to the office for this purpose. The office may grant loan repayment to eligible participants from the funds appropriated to the behavioral health loan repayment program or from any private or public funds given to the office for this purpose. Participants are ineligible to receive loan repayment under the health professional loan repayment and scholarship program or the behavioral health loan repayment program if they have received a scholarship from programs authorized under this chapter or chapter 70.180 RCW or are ineligible to receive a scholarship if they have received loan repayment authorized under this chapter or chapter 28B.115 RCW.

(2) Funds appropriated for the health professional loan repayment and scholarship program, including reasonable administrative costs, may be used by the office for the purposes of loan repayments or scholarships. The office shall annually establish the total amount of funding to be awarded for loan repayments and scholarships and such allocations shall be established based upon the best utilization of funding for that year.

(3) One portion of the funding appropriated for the health professional loan repayment and scholarship program shall be used by the office as a recruitment incentive for communities participating in the community-based recruitment and retention program as authorized by chapter 70.185 RCW; one portion of the funding shall be used by the office as a recruitment incentive for recruitment activities in state-operated institutions, county public health departments and districts, county human service agencies, federal and state contracted community health clinics, and other health care facilities, such as rural hospitals that have been identified by the department, as providing substantial amounts of charity care or publicly subsidized health care; one portion of the funding shall be used by the office for all other awards. The office shall determine the amount of total funding to be distributed between the three portions.

Sec. 9. RCW 28B.115.100 and 1991 c 332 s 23 are each amended to read as follows:

In providing health care services the participant shall not discriminate against a person on the basis of the person's ability to pay for such services or because payment for the health care services provided to such persons will be made under the insurance program established under part A or B of Title XVIII of the federal social security act or under a state plan for medical assistance including Title XIX of the federal social security act or under the state medical assistance program authorized by chapter 74.09 RCW and agrees to accept assignment under section 18.42(b)(3)(B)(ii) of the federal social security act for all services for which payment may be made under part B of Title XVIII of the federal social security act and enters into an appropriate agreement with the department of social and health services for medical assistance under Title XIX of the federal social security act to provide services to individuals entitled to medical assistance under the plan and enters into appropriate agreements with the department of social and health services for medical care services under chapter 74.09 RCW. Participants found by the ~~((board))~~office or the department in violation of this section shall be declared ineligible for receiving assistance under the programs authorized by this chapter.

Sec. 10. RCW 28B.115.110 and 2011 1st sp.s. c 11 s 210 are each amended to read as follows:

Participants in the Washington health (~~((professional loan repayment and scholarship program))~~) corps who are awarded loan repayments shall receive payment (~~((from the program))~~) for the purpose of repaying educational loans secured while attending a program of health professional training which led to a credential as a credentialed health professional in the state of Washington.

(1) Participants shall agree to meet the required service obligation (~~((in a designated health professional shortage area))~~).

(2) Repayment shall be limited to eligible educational and living expenses as determined by the office and shall include principal and interest.

(3) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the office access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(4) Repayment of loans established pursuant to (~~((this program))~~) the Washington health corps shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the office, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or an underserved behavioral health area after the required service obligation when eligibility discontinues, whichever comes first.

(5) Should the participant discontinue service in a health professional shortage area or an underserved behavioral health area, payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(6) Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to (~~((twice))~~) the unsatisfied portion of the service obligation, or the total amount paid by the program on their behalf, whichever is less. This amount is due and payable immediately. Participants who are unable to pay the full amount due shall enter into a payment arrangement with the office, including an arrangement for payment of interest. The maximum period for repayment is ten years. The office shall determine the applicability of this subsection. The interest rate shall be determined by the office and be established by rule.

(7) The office is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completion of the required service obligation. The office shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(8) The office shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

(9) The office shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017.

(10) The office shall establish an appeal process by rule.

Sec. 11. RCW 28B.115.120 and 2011 1st sp.s. c 11 s 211 are each amended to read as follows:

(1) Participants in the Washington health ((professional loan repayment and scholarship program))corps who are awarded scholarships incur an obligation to repay the scholarship, with penalty and interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The interest rate shall be determined by the office and established by rule. Participants who fail to complete the service obligation shall incur an equalization fee based on the remaining unforgiven balance. The equalization fee shall be added to the remaining balance and repaid by the participant.

(3) The period for repayment shall coincide with the required service obligation, with payments of principal and interest commencing no later than six months from the date the participant completes or discontinues the course of study or completes or discontinues the required postgraduate training. Provisions for deferral of payment shall be determined by the office.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payment of the unsatisfied portion of the principal and interest is due and payable immediately.

~~(5) ((In addition to the amount determined in subsection (4) of this section, except for circumstances beyond their control, participants who serve less than the required service obligation shall be obliged to pay a penalty of an amount equal to twice the unsatisfied portion of the principal.~~

~~(6))~~ Participants who are unable to pay the full amount due shall enter into a payment arrangement with the office for repayment including interest. The office shall set the maximum period for repayment ~~((is ten years))~~ by rule.

~~((7))~~(6) The office is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The office is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

~~((8))~~(7) Receipts from the payment of principal or interest or any other subsidies to which the office as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the office and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections under subsection ~~((7))~~(6) of this section. The office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

~~((9))~~(8) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the required service obligation in the community as a primary care physician. The office may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

~~((10))~~(9) The office may make exceptions to the conditions for participation and repayment obligations should circumstances beyond the control of individual participants warrant such exceptions. The office shall establish an appeal process by rule.

NEW SECTION. **Sec. 12.** A new section is added to chapter 28B.115 RCW to read as follows:

(1) Any funds appropriated by the legislature for the behavioral health loan repayment program, or any other public or private funds intended for loan repayments under this program, must be placed in the account created by this section.

(2) The behavioral health loan repayment program account is created in the custody of the state treasurer. All receipts from the program must be deposited into the account. Expenditures from the account may be used only for the behavioral health loan repayment program. Only the office, or its 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. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 303

[House Bill 1753]

HEALTH PROFESSIONS FEES--RULEMAKING--STATEMENT OF INQUIRY

AN ACT Relating to requiring a statement of inquiry for rules affecting fees related to health professions; and amending RCW 34.05.310.

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

Sec. 1. RCW 34.05.310 and 2011 c 298 s 20 are each amended to read as follows:

(1)(a) To meet the intent of providing greater public access to administrative rule making and to promote consensus among interested parties, agencies must solicit comments from the public on a subject of possible rule making before filing with the code reviser a notice of proposed rule making under RCW 34.05.320. The agency must prepare a statement of inquiry that:

(i) Identifies the specific statute or statutes authorizing the agency to adopt rules on this subject;

(ii) Discusses why rules on this subject may be needed and what they might accomplish;

(iii) Identifies other federal and state agencies that regulate this subject, and describes the process whereby the agency would coordinate the contemplated rule with these agencies;

(iv) Discusses the process by which the rule might be developed, including, but not limited to, negotiated rule making, pilot rule making, or agency study;

(v) Specifies the process by which interested parties can effectively participate in the decision to adopt a new rule and formulation of a proposed rule before its publication.

(b) The statement of inquiry must be filed with the code reviser for publication in the state register at least thirty days before the date the agency files notice of proposed rule making under RCW 34.05.320 and the statement, or a summary of the information contained in that statement, must be sent to any party that has requested receipt of the agency's statements of inquiry.

(2) Agencies are encouraged to develop and use new procedures for reaching agreement among interested parties before publication of notice and the adoption hearing on a proposed rule. Examples of new procedures include, but are not limited to:

(a) Negotiated rule making by which representatives of an agency and of the interests that are affected by a subject of rule making, including, where appropriate, county and city representatives, seek to reach consensus on the terms of the proposed rule and on the process by which it is negotiated; and

(b) Pilot rule making which includes testing the feasibility of complying with or administering draft new rules or draft amendments to existing rules through the use of volunteer pilot groups in various areas and circumstances, as provided in RCW 34.05.313 or as otherwise provided by the agency.

(3)(a) An agency must make a determination whether negotiated rule making, pilot rule making, or another process for generating participation from interested parties prior to development of the rule is appropriate.

(b) An agency must include a written justification in the rule-making file if an opportunity for interested parties to participate in the rule-making process prior to publication of the proposed rule has not been provided.

(4) Except as provided in subsection (5) of this section, this section does not apply to:

(a) Emergency rules adopted under RCW 34.05.350;

(b) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(c) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(d) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(e) Rules the content of which is explicitly and specifically dictated by statute;

(f) Rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045; or

(g) Rules that adopt, amend, or repeal:

(i) A procedure, practice, or requirement relating to agency hearings; or

(ii) A filing or related process requirement for applying to an agency for a license or permit.

(5) Notwithstanding subsection (4) of this section, this section applies to all rules adopted by the department of health or a disciplining authority specified in RCW 18.130.040 that set or adjust fees affecting professions regulated under chapter 18.130 RCW.

Passed by the House March 8, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 304

[Engrossed House Bill 1756]

ADULT ENTERTAINERS--SAFETY AND SECURITY

AN ACT Relating to safety and security of adult entertainers; and adding a new section to chapter 49.17 RCW.

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)(a) The department shall develop or contract for the development of training for entertainers. The training must include, but not be limited to:

(i) Education about the rights and responsibilities of entertainers, including with respect to working as an employee or independent contractor;

(ii) Reporting of workplace injuries, including sexual and physical abuse and sexual harassment;

(iii) The risk of human trafficking;

(iv) Financial aspects of the entertainer profession; and

(v) Resources for assistance.

(b) As a condition of receiving or renewing an adult entertainer license issued by a local government on or after July 1, 2020, an entertainer must provide proof that the entertainer took the training described in (a) of this subsection. The department must make the training reasonably available to allow entertainers sufficient time to take the training in order to receive or renew their licenses on or after July 1, 2020.

(2) An adult entertainment establishment must provide a panic button in each room in the establishment in which an entertainer may be alone with a customer, and in bathrooms and dressing rooms. An entertainer may use the panic button if the entertainer has been harmed, reasonably believes there is a risk of harm, or there is an other emergency in the entertainer's presence. The entertainer may cease work and leave the immediate area to await the arrival of assistance.

(3)(a) An adult entertainment establishment must record the accusations it receives that a customer has committed an act of violence, including assault, sexual assault, or sexual harassment, towards an entertainer. The establishment must make every effort to obtain the customer's name and if the establishment cannot determine the name, it must record as much identifying information about the customer as is reasonably possible. The establishment must retain a record of the customer's identifying information for at least five years after the most recent accusation.

(b) If an accusation is supported by a statement made under penalty of perjury or other evidence, the adult entertainment establishment must decline to allow the customer to return to the establishment for at least three years after the date of the incident. The establishment must share the information about the customer with other establishments with common ownership and those establishments with common ownership must also decline to allow the customer to enter those establishments for at least three years after the date of the incident. No entertainer may be required to provide such a statement.

(4) For the purposes of enforcement, except for subsection (1) of this section, this section shall be considered a safety or health standard under this chapter.

(5) This section does not affect an employer's responsibility to provide a place of employment free from recognized hazards or to otherwise comply with this chapter and other employment laws.

(6) The department shall convene an entertainer advisory committee to assist with the implementation of this section, including the elements of the training under subsection (1) of this section. At least half of the advisory committee members must be former entertainers who held or current entertainers who have held an adult entertainer license issued by a local government for at least five years. At least one member of the advisory committee must be an adult entertainment establishment which is licensed by a local government and operating in the state of Washington. The advisory committee shall also consider whether additional measures would increase the safety and security of entertainers, such as by examining ways to make the procedures described in subsection (3) of this section more effective and reviewing the fee structure for entertainers. If the advisory committee finds and recommends additional measures that would increase the safety and security of entertainers and that those additional measures would require legislative action, the department must report those recommendations to the appropriate committees of the legislature.

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

(a) "Adult entertainment" means any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance involves an entertainer who:

(i) Is unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals; or

(ii) Touches, caresses, or fondles the breasts, buttocks, anus, genitals, or pubic region of another person, or permits the touching, caressing, or fondling of the entertainer's own breasts, buttocks, anus, genitals, or pubic region by another person, with the intent to sexually arouse or excite another person.

(b) "Adult entertainment establishment" or "establishment" means any business to which the public, patrons, or members are invited or admitted where an entertainer provides adult entertainment to a member of the public, a patron, or a member.

(c) "Entertainer" means any person who provides adult entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not the person is an employee under RCW 49.17.020.

(d) "Panic button" means an emergency contact device by which the entertainer may summon immediate on-scene assistance from another entertainer, a security guard, or a representative of the entertainment establishment.

Passed by the House April 22, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 305

[Second Substitute House Bill 1784]

WILDFIRE PREVENTION--VARIOUS PROVISIONS

AN ACT Relating to wildfire prevention; amending RCW 76.06.200, 76.04.015, 70.94.6514, 70.94.6524, 70.94.6534, 70.94.6536, and 70.94.6538; and creating a new section.

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

Sec. 1. RCW 76.06.200 and 2017 c 95 s 1 are each amended to read as follows:

(1) The department must establish a forest health assessment and treatment framework designed to proactively and systematically address the forest health issues facing the state. Specifically, the framework must endeavor to achieve an initial goal of assessing and treating one million acres of land by 2033.

(2) The department must utilize the framework to assess and treat acreage in an incremental fashion each biennium. The framework consists of three elements: Assessment; treatment; and progress review and reporting.

(a) Assessment. Each biennium, the department must identify and assess two hundred thousand acres of fire prone lands and communities that are in need of forest health treatment, including the use of prescribed fire or mechanical treatment, such as thinning.

(i) The scope of the assessment must include lands protected by the department as well as lands outside of the department's fire protection responsibilities that could pose a high risk to department protected lands during a fire.

(ii) The assessment must identify areas in need of treatment, the type or types of treatment recommended, data and planning needs to carry out recommended treatment, and the estimated cost of recommended treatment.

(b) Treatment. Each biennium, the department must review previously completed assessments and prioritize and conduct as many identified treatments as possible using appropriations provided for that specific purpose.

(c) Progress review and reporting. By December 1st of each even-numbered year, the department must provide the appropriate committees of the legislature and the office of financial management with:

(i) A request for appropriations designed to implement the framework in the following biennium, including assessment work and conducting treatments identified in previously completed assessments;

(ii) A prioritized list and brief summary of treatments planned to be conducted under the framework with the requested appropriations, including relevant information from the assessment; and

(iii) A list and brief summary of treatments carried out under the framework in the preceding biennium, including total funding available, costs for completed treatment, and treatment outcomes. The summary must include any barriers to framework implementation and legislative or administrative recommendations to address those barriers.

(3) In developing and implementing the framework, the department must:

(a) Utilize and build on the forest health strategic planning initiated under section 308(11), chapter 36, Laws of 2016 sp. sess., to the maximum extent practicable, to promote the efficient use of resources; (~~and~~)

(b) Prioritize, to the maximum extent practicable consistent with this section, forest health treatments that are strategically planned to serve the dual benefits of forest health maximization while providing geographically planned tools for wildfire response; and

(c) Establish a forest health advisory committee to assist in developing and implementing the framework. The committee may: (i) Include representation from large and small forest landowners, wildland fire response organizations, milling and log transportation industries, forest collaboratives that may exist in the affected areas, highly affected communities and community preparedness organizations, conservation groups, and other interested parties deemed appropriate by the commissioner; and (ii) consult with relevant local, state, and federal agencies, and tribes.

(4) In implementing subsection (3)(b) of this section, the department shall attempt to locate and design forest health treatments in such a way as to provide wildfire response personnel with strategically located treated areas to assist with managing fire response. These areas must attempt to maximize the firefighting benefits of natural and artificial geographic features and be located in areas that prioritize the protection of commercially managed lands from fires originating on public land.

(5) The department must establish and implement the forest health assessment and treatment framework within the appropriations specifically provided for this purpose.

Sec. 2. RCW 76.04.015 and 2016 c 109 s 1 are each amended to read as follows:

(1) The department may, at its discretion, appoint trained personnel possessing the necessary qualifications to carry out the duties and supporting functions of the department and may determine their respective salaries.

(2) The department shall have direct charge of and supervision of all matters pertaining to the forest fire service of the state.

(3) The department shall:

(a) Enforce all laws within this chapter;

(b) Be empowered to take charge of and, consistent with RCW 76.04.021, direct the work of suppressing forest fires;

(c)(i) Investigate the origin and cause of all forest fires to determine whether either a criminal act or negligence by any person, firm, or corporation caused the starting, spreading, or existence of the fire. In conducting investigations, the department shall work cooperatively, to the extent possible, with utilities, property owners, and other interested parties to identify and preserve evidence. Except as provided otherwise in this subsection, the department in conducting investigations is authorized, without court order, to take possession or control of relevant evidence found in plain view and belonging to any person, firm, or corporation. To the extent possible, the department shall notify the person, firm, or corporation of its intent to take possession or control of the evidence. The person, firm, or corporation shall be afforded reasonable opportunity to view the evidence and, before the department takes possession or control of the evidence, also shall be afforded reasonable opportunity to examine, document, and photograph it. If the person, firm, or corporation objects in writing to the department's taking possession or control of the evidence, the department must either return the evidence within seven days after the day on which the department is provided with the written objections or obtain a court order authorizing the continued possession or control.

(ii) Absent a court order authorizing otherwise, the department may not take possession or control of evidence over the objection of the owner of the evidence if the evidence is used by the owner in conducting a business or in providing an electric utility service and the department's taking possession or control of the evidence would substantially and materially interfere with the operation of the business or provision of electric utility service.

(iii) Absent a court order authorizing otherwise, the department may not take possession or control of evidence over the objection of an electric utility when the evidence is not owned by the utility but has caused damage to property owned by the utility. However, this subsection (3)(c)(iii) does not apply if the department has notified the utility of its intent to take possession or control of the evidence and provided the utility with reasonable time to examine, document, and photograph the evidence.

(iv) Only personnel qualified to work on electrical equipment may take possession or control of evidence owned or controlled by an electric utility;

(d) Furnish notices or information to the public calling attention to forest fire dangers and the penalties for violation of this chapter;

(e) Be familiar with all timbered and cut-over areas of the state, areas where forest health treatments were undertaken on state, federal, or private land, public general transportation roads and public and private logging roads, water bodies, and other features on the landscape relevant in planning a fire response and include those features on a geographic information system for use by fire response personnel to assist in response decision making;

(f) Maximize the effective utilization of local fire suppression assets consistent with RCW 76.04.181; and

(g) Regulate and control the official actions of its employees, the wardens, and the rangers.

(4) The department may:

(a) Authorize all needful and proper expenditures for forest protection;

(b) Adopt rules consistent with this section for the prevention, control, and suppression of forest fires as it considers necessary including but not limited to: Fire equipment and materials; use of personnel; and fire prevention standards and operating conditions including a provision for reducing these conditions where justified by local factors such as location and weather;

(c) Remove at will the commission of any ranger or suspend the authority of any warden;

(d) Inquire into:

(i) The extent, kind, value, and condition of all timberlands within the state;

(ii) The extent to which timberlands are being destroyed by fire and the damage thereon;

(e) Provide fire detection, prevention, presuppression, or suppression services on nonforested public lands managed by the department or another state agency, but only to the extent that providing these services does not interfere with or detract from the obligations set forth in subsection (3) of this section. If the department provides fire detection, prevention, presuppression, or suppression services on nonforested public lands managed by another state agency, the department must be fully reimbursed for the work through a cooperative agreement as provided for in RCW 76.04.135(1).

(5) Any rules adopted under this section for the suppression of forest fires must include a mechanism by which a local fire mobilization radio frequency, consistent with RCW 43.43.963, is identified and made available during the initial response to any forest fire that crosses jurisdictional lines so that all responders have access to communications during the response. Different initial response frequencies may be identified and used as appropriate in different geographic response areas. If the fire radio communication needs escalate beyond the capability of the identified local radio frequency, the use of other available designated interoperability radio frequencies may be used.

(6) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in forest firefighting and patrol.

Sec. 3. RCW 70.94.6514 and 2009 c 118 s 103 are each amended to read as follows:

(1) Consistent with the policy of the state to reduce outdoor burning to the greatest extent practical, outdoor burning shall not be allowed in:

(a) Any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning; or

(b) Any urban growth area as defined by RCW 36.70A.030, or any city of the state having a population greater than ten thousand people if such cities are threatened to exceed state or federal air quality standards, and alternative disposal practices consistent with good solid waste management are reasonably available or practices eliminating production of organic refuse are reasonably available.

(2) Notwithstanding any other provision of this section, outdoor burning may be allowed for the exclusive purpose of managing storm or flood-related debris. The decision to allow burning shall be made by the entity with permitting jurisdiction as determined under RCW 70.94.6534 or 70.94.6518. If outdoor

burning is allowed in areas subject to subsection (1)(a) or (b) of this section, a permit shall be required, and a fee may be collected to cover the expenses of administering and enforcing the permit. All conditions and restrictions pursuant to RCW 70.94.6526(1) and 70.94.6512 apply to outdoor burning allowed under this section.

(3)(a) Outdoor burning that is normal, necessary, and customary to ongoing agricultural activities, that is consistent with agricultural burning authorized under RCW 70.94.6528 and 70.94.6532, is allowed within the urban growth area in accordance with RCW 70.94.6528(8)(a).

(b) Outdoor burning of cultivated orchard trees shall be allowed as an ongoing agricultural activity under this section in accordance with RCW 70.94.6528(8)(b).

(4) This section shall not apply to silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

(5) Notwithstanding any other provisions of this section, outdoor burning that reduces the risk of a wildfire, or is normal, necessary, and customary to ongoing silvicultural activities consistent with silvicultural burning authorized under RCW 70.94.6534(1), is allowed within the urban growth area in accordance with RCW 70.94.6534. Before issuing a burn permit within the urban growth area for any burn that exceeds one hundred tons of material, the department of natural resources shall consult with department of ecology and condition the issuance and use of such permits to comply with air quality standards established by the department of ecology.

Sec. 4. RCW 70.94.6524 and 2009 c 118 s 301 are each amended to read as follows:

(1) It shall be the responsibility and duty of the department of natural resources, department of ecology, department of agriculture, county fire marshals in consultation with fire districts, and local air pollution control authorities to establish, through regulations, ordinances, or policy, a limited burning permit program.

(2) The permit program shall apply to residential and land clearing burning in the following areas:

(a) In the nonurban areas of any county with an unincorporated population of greater than fifty thousand; and

(b) In any city and urban growth area that is not otherwise prohibited from burning pursuant to RCW 70.94.6514.

(3) The permit program shall apply only to land clearing burning in the nonurban areas of any county with an unincorporated population of less than fifty thousand.

(4) The permit program may be limited to a general permit by rule, or by verbal, written, or electronic approval by the permitting entity.

(5) Notwithstanding any other provision of this section, neither a permit nor the payment of a fee shall be required for outdoor burning for the purpose of disposal of tumbleweeds blown by wind. Such burning shall not be conducted during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715. This subsection (5) shall only apply within counties with a population less than two hundred fifty thousand.

(6) Burning shall be prohibited in an area when an alternate technology or method of disposing of the organic refuse is available, reasonably economical, and less harmful to the environment. It is the policy of this state to foster and encourage development of alternate methods or technology for disposing of or reducing the amount of organic refuse.

(7) Incidental agricultural burning must be allowed without applying for any permit and without the payment of any fee if:

- (a) The burning is incidental to commercial agricultural activities;
- (b) The operator notifies the local fire department within the area where the burning is to be conducted;
- (c) The burning does not occur during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715; and
- (d) Only the following items are burned:
 - (i) Orchard prunings;
 - (ii) Organic debris along fence lines or irrigation or drainage ditches; or
 - (iii) Organic debris blown by wind.

(8) As used in this section, "nonurban areas" are unincorporated areas within a county that are not designated as urban growth areas under chapter 36.70A RCW.

(9) Nothing in this section shall require fire districts to enforce air quality requirements related to outdoor burning, unless the fire district enters into an agreement with the department of ecology, department of natural resources, a local air pollution control authority, or other appropriate entity to provide such enforcement.

Sec. 5. RCW 70.94.6534 and 2010 1st sp.s. c 7 s 128 are each amended to read as follows:

(1) The department of natural resources (~~(shall have the responsibility)~~) is responsible for issuing and regulating burning permits required by it relating to the following activities for the protection of life or property (~~(and/or)~~) and for the public health, safety, and welfare:

- (a) Abating or prevention of a forest fire hazard;
- (b) (~~(Prevention of a fire hazard)~~) Reducing the risk of a wildfire under RCW 70.94.6514(5);
- (c) Instruction of public officials in methods of forest firefighting;
- (d) Any silvicultural operation to improve the forestlands of the state, including but not limited to forest health and resiliency, decreasing forest insect or disease susceptibility, maintaining or restoring native vegetation, or otherwise enhancing resiliency to fire; and
- (e) Silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

(2) The department of natural resources shall not retain such authority, but it shall be the responsibility of the appropriate fire protection agency for permitting and regulating outdoor burning on lands where the department of natural resources does not have fire protection responsibility, except for the issuance of permits for reducing the risk of wildfire under RCW 70.94.6514(5). The department of natural resources may enter into cooperative agreements with

local fire protection agencies to issue permits for reducing wildfire risk under RCW 70.94.6514(5).

(3) Permit fees shall be assessed for wildfire risk reduction and for silvicultural burning under the jurisdiction of the department of natural resources and collected by the department of natural resources as provided for in this section. All fees shall be deposited in the air pollution control account, created in RCW 70.94.015. The legislature shall appropriate to the department of natural resources funds from the air pollution control account to enforce and administer the program under this section and RCW 70.94.6536, 70.94.6538, and 70.94.6540. Fees shall be set by rule by the department of natural resources at the level necessary to cover the costs of the program after receiving recommendations on such fees from the public.

Sec. 6. RCW 70.94.6536 and 1995 c 143 s 1 are each amended to read as follows:

(1)(a) The department of natural resources shall administer a program to reduce statewide emissions from silvicultural forest burning so as to achieve the following minimum objectives:

~~((a))~~ (i) Twenty percent reduction by December 31, 1994, providing a ceiling for emissions until December 31, 2000; and

~~((b))~~ (ii) Fifty percent reduction by December 31, 2000, providing a ceiling for emissions thereafter.

(b) Reductions shall be calculated from the average annual emissions level from calendar years 1985 to 1989, using the same methodology for both reduction and base year calculations.

(2)(a) The department of natural resources, within twelve months after May 15, 1991, shall develop a plan, based upon the existing smoke management agreement to carry out the programs as described in this section in the most efficient, cost-effective manner possible. The plan shall be developed in consultation with the department of ecology, public and private landowners engaged in silvicultural forest burning, and representatives of the public.

(b) The plan shall recognize the variations in silvicultural forest burning including, but not limited to, a landowner's responsibility to abate an extreme fire hazard under chapter 76.04 RCW and other objectives of burning, including abating and preventing a fire hazard, geographic region, climate, elevation and slope, proximity to populated areas, ~~((and))~~ diversity of land ownership, improving forest health and resiliency, decreasing forest insect or disease susceptibility, maintaining or restoring native vegetation, or otherwise enhancing resiliency to fire. The plan shall establish priorities that the department of natural resources shall use to allocate allowable emissions, including but not limited to, forest health and resiliency, silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas. The plan shall also recognize the real costs of the emissions program and recommend equitable fees to cover the costs of the program.

(c) The emission reductions in this section are to apply to all forestlands including those owned and managed by the United States. If the United States does not participate in implementing the plan, the departments of natural

resources and ecology shall use all appropriate and available methods or enforcement powers to ensure participation.

(d) The plan shall include a tracking system designed to measure the degree of progress toward the emission reductions goals set in this section. The department of natural resources shall report annually to the department of ecology and the legislature on the status of the plan, emission reductions and progress toward meeting the objectives specified in this section, and the goals of this chapter and chapter 76.04 RCW.

(3) If the December 31, 1994, emission reductions targets in this section are not met, the department of natural resources, in consultation with the department of ecology, shall use its authority granted in this chapter and chapter 76.04 RCW to immediately limit emissions from such burning to the 1994 target levels and limit silvicultural forest burning in subsequent years to achieve equal annual incremental reductions so as to achieve the December 31, 2000, target level. If, as a result of the program established in this section, the emission reductions are met in 1994, but are not met by December 31, 2000, the department of natural resources in consultation with the department of ecology shall immediately limit silvicultural forest burning to reduce emissions from such burning to the December 31, 2000, target level in all subsequent years.

(4) Emissions from silvicultural burning in eastern Washington that is conducted for the purpose of restoring forest health or preventing the additional deterioration of forest health are exempt from the reduction targets and calculations in this section if the following conditions are met:

(a) The landowner submits a written request to the department identifying the location of the proposed burning and the nature of the forest health problem to be corrected. The request shall include a brief description of alternatives to silvicultural burning and reasons why the landowner believes the alternatives not to be appropriate.

(b) The department determines that the proposed silvicultural burning operation is being conducted to restore forest health or prevent additional deterioration to forest health; meets the requirements of the state smoke management plan to protect public health, visibility, and the environment; and will not be conducted during an air pollution episode or during periods of impaired air quality in the vicinity of the proposed burn.

(c) Upon approval of the request by the department and before burning, the landowner is encouraged to notify the public in the vicinity of the burn of the general location and approximate time of ignition.

(5) The department of ecology may conduct a limited, seasonal ambient air quality monitoring program to measure the effects of forest health burning conducted under subsection (4) of this section. The monitoring program may be developed in consultation with the department of natural resources, private and public forest landowners, academic experts in forest health issues, and the general public.

Sec. 7. RCW 70.94.6538 and 2009 c 118 s 502 are each amended to read as follows:

The department of natural resources, in granting burning permits for fires for the purposes set forth in RCW 70.94.6534, shall condition the issuance and use of such permits to comply to the extent feasible with air quality standards established by the department of ecology (~~after full consultation with the~~

~~department of natural resources~~)). Such burning shall not cause the state air quality standards to be exceeded in the ambient air up to two thousand feet above ground level over critical areas designated by the department of ecology, otherwise subject to air pollution from other sources. Air quality standards shall be established and published by the department of ecology which shall also establish a procedure for advising the department of natural resources when and where air contaminant levels exceed or threaten to exceed the ambient air standards over such critical areas. The air quality shall be quantitatively measured by the department of ecology or the appropriate local air pollution control authority at established monitoring stations over such designated areas. Further, such permitted burning shall not cause damage to public health or the environment. All permits issued under this section shall be subject to all applicable fees, permitting, penalty, and enforcement provisions of this chapter. The department of natural resources shall set forth smoke dispersal objectives designed consistent with this section to minimize any air pollution from such burning and the procedures necessary to meet those objectives.

The department of natural resources shall encourage more intense utilization in logging and alternative silviculture practices to reduce the need for burning. The department of natural resources shall, whenever practical, encourage landowners to develop and use alternative acceptable disposal methods subject to the following priorities: (1) Slash production minimization, (2) slash utilization, (3) nonburning disposal, (4) silvicultural burning. Such alternative methods shall be evaluated as to the relative impact on air, water, and land pollution, public health, and their financial feasibility.

The department of natural resources shall not issue burning permits and shall revoke previously issued permits at any time in any area where the department of ecology or local board has declared a stage of impaired air quality as defined in RCW 70.94.473.

NEW SECTION. Sec. 8. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 306

[Engrossed Substitute House Bill 1817]

HIGH HAZARD FACILITIES--WORKFORCE

AN ACT Relating to ensuring for a skilled and trained workforce in high hazard facilities; adding a new chapter to Title 49 RCW; prescribing penalties; 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 definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Apprenticeable occupation" means an occupation for which an apprenticeship program has been approved by the Washington state apprenticeship and training council pursuant to chapter 49.04 RCW.

(2) "Department" means the department of labor and industries.

(3) "On-site work" does not include ship and rail car support activities; environmental inspection and testing; security guard services; work which is performed by an original equipment manufacturer for warranty, repair, or maintenance on the vendor's equipment if required by the original equipment manufacturer's warranty agreement between the original equipment manufacturer and the owner; industrial cleaning not related to construction; safety services requiring professional safety certification; nonconstruction catalyst loading, regeneration, and removal; chemical purging and cleaning; refinery byproduct separation and recovery; inspection services not related to construction; and work performed that is not in an apprenticeable occupation.

(4) "Prevailing hourly wage rate" has the meaning provided for "prevailing rate of wage" in RCW 39.12.010.

(5) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

(6) "Skilled and trained workforce" means a workforce that meets both of the following criteria:

(a) All the workers are either registered apprentices or skilled journeypersons; and

(b) The workforce meets the apprenticeship graduation and approved advanced safety training requirements established in section 3 of this act.

(7) "Skilled journeyperson" means a worker who meets all of the following criteria:

(a) The worker either graduated from an apprenticeship program for the applicable occupation that was approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW, or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(b) The worker is being paid at least a rate commensurate with the wages typically paid for the occupation in the applicable geographic area, subject to the following provisions:

(i) The prevailing wage rate paid for a worker in the applicable occupation and geographic area on public works projects may be used to determine the appropriate rate of pay, however, this subsection (7)(b) does not require a contractor to pay prevailing wage rates; and

(ii) In no case may the worker be paid at a rate less than an hourly rate consistent with the seventy-fifth percentile in the applicable occupation and geographic area in the most recent occupational employment statistics published by the employment security department.

NEW SECTION. Sec. 2. (1) An owner or operator of a stationary source that is engaged in activities described in code 324110 or 325110 of the North American industry classification system, when contracting for the performance of construction, alteration, demolition, installation, repair, or maintenance work

at the stationary source, shall require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades. This section shall not apply to oil and gas extraction operations.

(2)(a) The department in consultation with the Washington state apprenticeship and training council shall approve a curriculum of in-person classroom and laboratory instruction for approved advanced safety training for workers at high hazard facilities.

(b) The safety training must be provided by a training provider, which may include a registered apprenticeship program, approved by the department. The department must periodically review and revise the curriculum to reflect current best practices.

(c) Upon receipt of certification from the approved training provider, the department must issue a certificate to a worker who completes the approved curriculum.

(d) The department may accept a certificate or other documentation issued by another state if the department finds that the curriculum and documentation of the other state meets the requirements of this subsection.

(3) This section applies to work performed under contracts awarded, contract extensions, and contract renewals occurring on or after the effective date of this section. This section shall also apply to work performed under a contract awarded before the effective date of this section if the work is performed more than one year after the effective date of this section.

(4) This section does not apply to:

(a) The employees of the owner or operator of the stationary source, nor does it prevent the owner or operator of the stationary source from using its own employees to perform any work that has not been assigned to contractors while the employees of the contractor are present and working;

(b) A contractor who has requested qualified workers from the local hiring halls or apprenticeship programs that dispatch workers in the apprenticeable occupation and who, due to workforce shortages, is unable to obtain sufficient qualified workers within forty-eight hours of the request, Saturdays, Sundays, and holidays excepted; and

(c) Emergencies that make compliance impracticable because they require immediate action to prevent harm to public health or safety or to the environment. This section applies as soon as the emergency is over or it becomes practicable for contractors to obtain a qualified workforce.

(5) The requirements under subsection (1) of this section apply to each individual contractor's and subcontractor's on-site workforce.

(6) The requirements of this section do not make the work described in subsection (1) of this section a public work within the meaning of RCW 39.04.010.

NEW SECTION. Sec. 3. The following implementation schedule must be complied with to meet the requirements of section 2 of this act for a skilled and trained workforce to perform all on-site work within an apprenticeable occupation in the building and construction trades:

(1)(a) By January 1, 2021, at least twenty percent of the skilled journeypersons must be graduates of an apprenticeship program for the

applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW;

(b) By January 1, 2022, at least thirty-five percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW;

(c) By January 1, 2023, at least forty-five percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(d) By January 1, 2024, at least sixty percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(2) By January 1, 2022, all workers in the skilled and trained workforce must have completed within the past three calendar years at least twenty hours of approved advanced safety training for workers at high hazard facilities.

NEW SECTION. Sec. 4. (1) Failure to comply with the skilled and trained workforce requirements of this chapter, except the requirement that a worker be paid at a rate commensurate with wages typically paid for the occupation, constitutes a violation of chapter 49.17 RCW.

(2) The wage rate requirement of section 1(7)(b) of this act constitutes a wage payment requirement as defined in RCW 49.48.082.

NEW SECTION. Sec. 5. (1) The department in consultation with the Washington state apprenticeship and training council shall prioritize consideration of new apprenticeship programs for workers in high hazard facilities. The Washington state apprenticeship and training council shall issue a decision within six months of the acceptance of a completed application for consideration of a new state registered apprenticeship program for workers in high hazard facilities.

(2) This section expires December 31, 2023.

NEW SECTION. Sec. 6. The department may adopt rules necessary to implement this chapter.

NEW SECTION. Sec. 7. Sections 1 through 6 and 8 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. Sec. 8. This act takes effect January 1, 2020.

Passed by the House April 18, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 307

[Substitute House Bill 1856]

SCLERAL TATTOOING

AN ACT Relating to prohibiting scleral tattooing; amending RCW 18.300.100; 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) A person may not perform or offer to perform scleral tattooing on another person.

(2) A person who violates this section is subject to a civil penalty not to exceed ten thousand dollars for each violation, as determined by the court.

(3)(a) The attorney general may receive, investigate, and prosecute complaints against alleged violators of this section.

(b) The attorney general may institute and conduct an action in the name of the state of Washington for any of the following:

(i) An injunction in any court of this state for injunctive relief to restrain a person from continuing any activity that violates this section.

(ii) The assessment and recovery of civil penalties provided in subsection (2) of this section.

(4) The attorney general must be reimbursed through civil penalties collected under this section for the costs incurred in providing the services described in subsection (3) of this section. Any remaining funds must be deposited in the state general fund.

(5) For the purposes of this section, "scleral tattooing" means the practice of producing an indelible mark or figure on the human eye by scarring or inserting a pigment on, in, or under: (a) The fornix conjunctiva; (b) the bulbar conjunctiva; (c) the ocular conjunctiva; or (d) another ocular surface; using needles, scalpels, or other related equipment.

Sec. 2. RCW 18.300.100 and 2009 c 412 s 11 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action against any applicant or licensee under this chapter if the licensee or applicant:

(1) Has been found to have violated any provisions of chapter 19.86 RCW;

(2) Has engaged in a practice prohibited under RCW 18.300.030 without first obtaining, and maintaining in good standing, the license required by this chapter;

(3) Has failed to display licenses required in this chapter; (~~(4)~~)

(4) Has violated any provision of this chapter or any rule adopted under it;

or

(5) Has been found to have violated section 1 of this act.

Passed by the House March 8, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 308

[Substitute House Bill 1865]

ACUPUNCTURE AND EASTERN MEDICINE--VARIOUS PROVISIONS

AN ACT Relating to acupuncture and Eastern medicine; amending RCW 18.06.010, 18.06.020, 18.06.045, 18.06.050, 18.06.060, 18.06.080, 18.06.130, 18.06.140, 18.06.190, 18.06.220, 18.06.230, 4.24.240, 4.24.290, 7.70.020, 18.120.020, 18.130.040, 18.250.010, 41.05.074, 43.70.110,

and 48.43.016; reenacting and amending RCW 69.41.010; adding a new section to chapter 18.06 RCW; creating a new section; and repealing RCW 18.06.070, 18.06.180, and 18.06.005.

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

NEW SECTION. Sec. 1. The legislature finds that acupuncture and Eastern medicine is a holistic system of medicine that has developed through traditional medical practices in China, Japan, Korea, and the other East Asian countries.

The legislature finds that the practice of acupuncture has become mainstream in the health care system nationally and internationally. The legislature intends to align the professional title of acupuncture with state and federal designations for the profession, defining it as a comprehensive system of medicine. For the purposes of this act, the term Eastern medicine is more inclusive of the broader system of medicine and can be used interchangeably with acupuncture.

The legislature does not intend to require persons currently licensed under this chapter to change the business name of their practice if otherwise in compliance with this chapter.

Sec. 2. RCW 18.06.010 and 2016 c 97 s 1 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "Acupuncture" or "~~((East Asian))~~ Eastern medicine" means a health care service utilizing ~~((East Asian))~~ acupuncture or Eastern medicine diagnosis and treatment to promote health and treat organic or functional disorders and includes the following:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy ~~((acupuncture))~~, as defined in rule by the department. Point injection therapy includes injection of substances, limited to saline, sterile water, herbs, minerals, vitamins in liquid form, and homeopathic and nutritional substances, consistent with the practice of ~~((East Asian))~~ acupuncture or Eastern medicine. Point injection therapy does not include injection of controlled substances contained in Schedules I through V of the uniform controlled substances act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300;

(k) Dietary advice and health education based on ~~((East Asian))~~ acupuncture or Eastern medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements;

(l) Breathing, relaxation, and ~~((East Asian))~~ Eastern exercise techniques;

(m) Qi gong;

(n) ~~((East Asian))~~ Eastern massage and Tui na, which is a method of ~~((East Asian))~~ Eastern bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation; and

(o) Superficial heat and cold therapies.

(2) "Acupuncturist" or "~~((East Asian))~~ acupuncture and Eastern medicine practitioner" means a person licensed under this chapter.

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

(4) "Secretary" means the secretary of health or the secretary's designee.

Nothing in this chapter requires individuals to be licensed as an ~~((East Asian))~~ acupuncturist or Eastern medicine practitioner in order to provide the techniques and services in subsection (1)(k) through (o) of this section or to sell herbal products.

Sec. 3. RCW 18.06.020 and 2010 c 286 s 3 are each amended to read as follows:

(1) No one may hold themselves out to the public as an ~~((East Asian medicine practitioner,))~~ acupuncturist, ((or)) licensed acupuncturist, acupuncture and Eastern medicine practitioner, or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an ~~((East Asian medicine practitioner,))~~ acupuncturist, ((or)) licensed acupuncturist or acupuncture and Eastern medicine practitioner, unless licensed as provided for in this chapter.

(2) A person may not practice ~~((East Asian))~~ acupuncture or Eastern medicine ((or acupuncture)) if the person is not licensed under this chapter.

(3) No one may use any configuration of letters after their name (including L. Ac. ~~((or)),~~ EAMP, or AEMP) which indicates a degree or formal training in ~~((East Asian))~~ acupuncture or Eastern medicine~~((, including acupuncture,))~~ unless licensed as provided for in this chapter.

(4) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is licensed under this chapter.

(5) ~~((Any))~~ A person licensed ~~((as an acupuncturist))~~ under this chapter ~~((prior to June 10, 2010, must, upon successful license renewal, be granted))~~ may use the title ((East Asian)) acupuncture and Eastern medicine practitioner ((or)) and may use the letters ~~((EAMP))~~ AEMP indicating such license ~~((title)).~~ However, nothing in this section ~~((shall))~~ prohibits or limits in any way a practitioner licensed under this ~~((title))~~ chapter from alternatively holding himself or herself out as an acupuncturist ~~((or)),~~ licensed acupuncturist, or East Asian medicine practitioner or from using the letters L.Ac. or EAMP after his or her name.

Sec. 4. RCW 18.06.045 and 2010 c 286 s 4 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual credentialed under the laws of this state and performing services within such individual's authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) The practice of ~~((East Asian))~~ acupuncture or Eastern medicine~~((, including acupuncture,))~~ by any person credentialed to perform ~~((East Asian))~~ acupuncture or Eastern medicine~~((, including acupuncture,))~~ in any other jurisdiction where such person is doing so in the course of regular instruction of a school of ~~((East Asian medicine, including))~~ acupuncture, Eastern medicine, traditional Chinese medicine, or medical traditions from Japan, Korea, or other East Asian countries, approved by the secretary or in an educational seminar by a professional organization of ~~((East Asian))~~ acupuncture or Eastern medicine, ~~((including acupuncture,))~~ provided that in the latter case, the practice is supervised directly by a person licensed under this chapter or licensed under any other healing art whose scope of practice is ~~((East Asian))~~ acupuncture and Eastern medicine~~((, including acupuncture))~~.

Sec. 5. RCW 18.06.050 and 2010 c 286 s 5 are each amended to read as follows:

Any person seeking to be ~~((examined))~~ licensed shall present to the secretary ~~((at least forty-five days before the commencement of the examination))~~:

(1) A written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require; and

(2) Proof that the candidate has:

(a) Successfully completed a course, approved by the secretary, of didactic training in basic sciences and ~~((East Asian))~~ acupuncture and Eastern medicine~~((, including acupuncture,))~~ over a minimum period of two academic years. The training shall include such subjects as anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the secretary;

(b) Successfully completed five hundred hours of clinical training in ~~((East Asian))~~ acupuncture or Eastern medicine~~((, including acupuncture,))~~ that is approved by the secretary.

Sec. 6. RCW 18.06.060 and 1991 c 3 s 8 are each amended to read as follows:

The department shall consider for approval any school~~((s))~~ or program~~((s))~~ ~~((apprenticeship, or tutorial which))~~ that meets the requirements outlined in this chapter and provides the training required under RCW 18.06.050. Clinical and didactic training may be approved as separate programs or as a joint program. The process for approval shall be established by the secretary by rule.

Sec. 7. RCW 18.06.080 and 2010 c 286 s 6 are each amended to read as follows:

(1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in ~~((East Asian))~~ order to become a licensed acupuncturist or acupuncture and Eastern medicine~~((including acupuncture;))~~ practitioner at least twice a year at such times and places as the secretary may select. The examination shall be a written examination and may include a practical examination.

(2) The secretary shall ~~((develop or))~~ approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner and shall include but not necessarily be limited to anatomy, physiology, microbiology, biochemistry, pathology, hygiene, acupuncture, and ~~((East Asian))~~ Eastern medicine~~((including acupuncture;))~~. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner.

Sec. 8. RCW 18.06.130 and 2010 c 286 s 8 are each amended to read as follows:

(1) The secretary shall develop a form to be used by a person licensed under this chapter to inform the patient of the scope of practice and qualifications of an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner. All license holders shall bring the form to the attention of the patients in whatever manner the secretary, by rule, provides.

(2) A person violating this section is guilty of a misdemeanor.

Sec. 9. RCW 18.06.140 and 2015 c 60 s 2 are each amended to read as follows:

(1) When a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the practitioner shall immediately request a consultation or recent written diagnosis from a primary health care provider licensed under chapter 18.71, 18.57, 18.57A, 18.36A, or 18.71A RCW or RCW 18.79.050. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such primary health care provider, ~~((East Asian medical))~~ acupuncture or Eastern medicine treatments~~((including acupuncture;))~~ may only be continued after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must also include: (a) An explanation of an ~~((East Asian))~~ acupuncturist's or acupuncture and Eastern medicine practitioner's scope of practice, including the services and techniques ~~((East Asian))~~ acupuncturists or acupuncture and Eastern medicine practitioners are authorized to provide and (b) a statement that the services and techniques that an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder. The requirements of the waiver shall be established by the secretary in rule.

(2) In an emergency, a person licensed under this chapter shall: (a) Initiate the emergency medical system by calling 911; (b) request an ambulance; and (c) provide patient support until emergency response arrives.

(3) A person violating this section is guilty of a misdemeanor.

Sec. 10. RCW 18.06.190 and 2010 c 286 s 10 are each amended to read as follows:

The secretary may license a person without examination if such person is credentialed as an (~~(East Asian)~~) acupuncturist or acupuncture and Eastern medicine practitioner (~~(or licensed acupuncturist)~~), or equivalent, in another jurisdiction if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state.

Sec. 11. RCW 18.06.220 and 2015 c 60 s 1 are each amended to read as follows:

The Washington state (~~(East Asian)~~) acupuncture and Eastern medicine advisory committee is established.

(1) The committee consists of five members, each of whom must be a resident of the state of Washington. Four committee members must be (~~(East Asian)~~) acupuncturists or acupuncture and Eastern medicine practitioners licensed under this chapter who have not less than five years' experience in the practice of (~~(East Asian)~~) acupuncture and Eastern medicine and who have been actively engaged in practice within two years of appointment. The fifth committee member must be appointed from the public at large and must have an interest in the rights of consumers of health services.

(2) The secretary shall appoint the committee members. Committee members serve at the pleasure of the secretary. The secretary may appoint members of the initial committee to staggered terms of one to three years, and thereafter all terms are for three years. No member may serve more than two consecutive full terms.

(3) The committee shall meet as necessary, but no less often than once per year. The committee shall elect a chair and a vice chair. A majority of the members currently serving constitutes a quorum.

(4) The committee shall advise and make recommendations to the secretary on standards for the practice of (~~(East Asian)~~) acupuncture and Eastern medicine.

(5) Committee members must be compensated in accordance with RCW 43.03.240, including travel expenses in carrying out his or her authorized duties in accordance with RCW 43.03.050 and 43.03.060.

(6) Committee members are immune from suit in an action, civil or criminal, based on the department's disciplinary proceedings or other official acts performed in good faith.

Sec. 12. RCW 18.06.230 and 2016 c 97 s 4 are each amended to read as follows:

(1) Prior to providing point injection therapy services, an (~~(East Asian)~~) acupuncturist or acupuncture and Eastern medicine practitioner must obtain the education and training necessary to provide the service. (~~(The department shall adopt rules by July 1, 2017, to specify the education and training necessary to provide point injection therapy.)~~)

(2) Any (~~(East-Asian)~~) acupuncturist or acupuncture and Eastern medicine practitioner performing point injection therapy prior to June 9, 2016, must be able to demonstrate, upon request of the department of health, successful completion of education and training in point injection therapy.

NEW SECTION. Sec. 13. A new section is added to chapter 18.06 RCW to read as follows:

The department shall adopt a rule requiring completion of continuing education for acupuncturists as a condition of license renewal.

Sec. 14. RCW 4.24.240 and 2010 c 286 s 11 are each amended to read as follows:

(1)(a) A person licensed by this state to provide health care or related services including, but not limited to, an (~~(East-Asian)~~) acupuncturist or acupuncture and Eastern medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician assistant, osteopathic physician's assistant, nurse practitioner, including, in the event such person is deceased, his or her estate or personal representative;

(b) An employee or agent of a person described in subparagraph (a) of this subsection, acting in the course and scope of his or her employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subparagraph (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative;

shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board.

Sec. 15. RCW 4.24.290 and 2010 c 286 s 12 are each amended to read as follows:

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an (~~(East-Asian)~~) acupuncturist or acupuncture and Eastern medicine practitioner licensed under chapter 18.06 RCW, a physician licensed under

chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under chapter 18.79 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient.

Sec. 16. RCW 7.70.020 and 2010 c 286 s 13 are each amended to read as follows:

As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services including, but not limited to, an (~~East Asian~~) acupuncturist or acupuncture and Eastern medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his or her estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative.

Sec. 17. RCW 18.120.020 and 2017 c 336 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) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ophthalmologists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage therapists under chapter 18.108 RCW; (~~East Asian~~) acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; 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 licensed behavior analysts, licensed assistant behavior analysts, and certified behavior technicians under chapter 18.380 RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(9) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Sec. 18. RCW 18.130.040 and 2017 c 336 s 18 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) ~~((East Asian))~~ 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) Chemical dependency professionals and chemical dependency professional trainees 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 chapters 18.57 and 18.57A 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 medical quality assurance 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; 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. 19. RCW 18.250.010 and 2016 c 41 s 22 are each amended to read as follows:

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

(1) "Athlete" means a person who participates in exercise, recreation, sport, or games requiring physical strength, range-of-motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, sports, or games are of a type conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a person who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first-aid and emergency procedures and techniques for nonlife-threatening or life-threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in RCW 18.250.070;

(v) Treatment, rehabilitation, and reconditioning of work-related injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, under the direct supervision of and in accordance with a plan of care for an individual worker established by a provider

authorized to provide physical medicine and rehabilitation services for injured workers; and

(vi) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is outside an athletic trainer's scope of practice, in accordance with RCW 18.250.070.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary, prefabricated or direct-formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of (~~East Asian~~) acupuncture and Eastern medicine as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

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

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, osteopathic physician assistant, advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage therapist, acupuncturist, occupational therapist, or podiatric physician and surgeon.

(8) "Secretary" means the secretary of health or the secretary's designee.

Sec. 20. RCW 41.05.074 and 2015 c 251 s 1 are each amended to read as follows:

(1) A health plan offered to public employees and their covered dependents under this chapter that imposes different prior authorization standards and criteria for a covered service among tiers of contracting providers of the same licensed profession in the same health plan shall inform an enrollee which tier an individual provider or group of providers is in by posting the information on its web site in a manner accessible to both enrollees and providers.

(2) The health plan may not require prior authorization for an evaluation and management visit or an initial treatment visit with a contracting provider in a new episode of chiropractic, physical therapy, occupational therapy, (~~East Asian~~) acupuncture and Eastern medicine, massage therapy, or speech and hearing therapies. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

(3) The health care authority shall post on its web site and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the health plan uses for medical necessity decisions.

(4) A health care provider with whom the administrator of the health plan consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care

provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

(5) The health plan may not require a provider to provide a discount from usual and customary rates for health care services not covered under the health plan, policy, or other agreement, to which the provider is a party.

(6) For purposes of this section:

(a) "New episode of care" means treatment for a new or recurrent condition for which the enrollee has not been treated by the provider within the previous ninety days and is not currently undergoing any active treatment.

(b) "Contracting provider" does not include providers employed within an integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW.

Sec. 21. RCW 43.70.110 and 2015 c 77 s 1 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, advanced social workers licensed under chapter 18.225 RCW, independent clinical social workers and independent clinical social worker associates licensed under chapter 18.225 RCW, midwives licensed under chapter 18.50 RCW, marriage and family therapists and marriage and family therapist associates licensed under chapter 18.225 RCW, occupational therapists and

occupational therapy assistants licensed under chapter 18.59 RCW, dietitians and nutritionists certified under chapter 18.138 RCW, speech-language pathologists licensed under chapter 18.35 RCW, and ~~((East Asian))~~ acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

Sec. 22. RCW 48.43.016 and 2018 c 193 s 1 are each amended to read as follows:

(1) A health carrier that imposes different prior authorization standards and criteria for a covered service among tiers of contracting providers of the same licensed profession in the same health plan shall inform an enrollee which tier an individual provider or group of providers is in by posting the information on its web site in a manner accessible to both enrollees and providers.

(2) A health carrier may not require prior authorization for an initial evaluation and management visit and up to six consecutive treatment visits with a contracting provider in a new episode of care of chiropractic, physical therapy, occupational therapy, ~~((East Asian))~~ acupuncture and Eastern medicine, massage therapy, or speech and hearing therapies that meet the standards of medical necessity and are subject to quantitative treatment limits of the health plan. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

(3) A health carrier shall post on its web site and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the carrier uses for medical necessity decisions.

(4) A health care provider with whom a health carrier consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

(5) A health carrier may not require a provider to provide a discount from usual and customary rates for health care services not covered under a health plan, policy, or other agreement, to which the provider is a party.

(6) For purposes of this section:

(a) "New episode of care" means treatment for a new or recurrent condition for which the enrollee has not been treated by the provider within the previous ninety days and is not currently undergoing any active treatment.

(b) "Contracting provider" does not include providers employed within an integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW.

Sec. 23. RCW 69.41.010 and 2016 c 148 s 10 and 2016 c 97 s 2 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Commission" means the pharmacy quality assurance commission.

(3) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

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

(6) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(7) "Dispenser" means a practitioner who dispenses.

(8) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(9) "Distributor" means a person who distributes.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(11) "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 transmitted verbally by telephone nor a facsimile manually signed by the practitioner.

(12) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(13) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(14) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the

medication order. A prescription must be hand printed, typewritten, or electronically generated.

(15) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an ~~((East Asian))~~ acupuncturist or acupuncture and Eastern medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(18) "Secretary" means the secretary of health or the secretary's designee.

NEW SECTION. Sec. 24. The following acts or parts of acts are each repealed:

(1) RCW 18.06.070 (Approval of applications—Examination fee) and 1991 c 3 s 9 & 1985 c 326 s 7;

(2) RCW 18.06.180 (Application of chapter to previously registered acupuncture assistants) and 1991 c 3 s 17 & 1985 c 326 s 18; and

(3) RCW 18.06.005 (Intent—2010 c 286) and 2010 c 286 s 1.

Passed by the House March 8, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 309

[House Bill 2119]

EXCHANGE OF CERTAIN STATE FORESTLANDS--PRORATED PAYMENTS BY COUNTY

AN ACT Relating to the distribution of moneys derived from certain state forestlands; and reenacting and amending RCW 79.64.110.

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

Sec. 1. RCW 79.64.110 and 2017 3rd sp.s. c 13 s 315, 2017 3rd sp.s. c 1 s 986, and 2017 c 248 s 6 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 for lands acquired through RCW 79.22.040:

(i) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board, must be returned to the forest development account created in RCW 79.64.100. During the 2015-2017 and 2017-2019 fiscal biennia, the board may increase the twenty-five percent limitation up to twenty-seven percent.

(ii) Any balance remaining must be paid to the county in which the land is located or, for counties participating in a land pool created under RCW 79.22.140, to each participating county proportionate to its contribution of asset value to the land pool as determined by the board. Payments made under this subsection are to be paid, distributed, and prorated, except as otherwise provided in this section, to the various funds in the same manner as general taxes are paid and distributed during the year of payment. 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 the effective date of this section and June 30, 2020, 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, must first be applied to the reduction of any indebtedness existing in the current expense fund of the county during the year of payment.

(iv) With regard to moneys remaining under this subsection (1)(a), within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state

treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date.

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

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

(ii) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, to the county in which the land is located or, for counties participating in a land pool created under RCW 79.22.140, to each participating county proportionate to its contribution of asset value to the land pool as determined by the board, and according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 (1) and (2) and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

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

Passed by the House March 7, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 310

[Senate Bill 5179]

COUNTY ROAD ELECTRICAL PROJECTS--CONTRACTING THRESHOLD

AN ACT Relating to county electrical traffic control signals, illumination equipment, and other electrical equipment conveying an electrical current; and amending RCW 36.77.065.

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

Sec. 1. RCW 36.77.065 and 2009 c 29 s 1 are each amended to read as follows:

The board may cause any county road to be constructed or improved by use of county forces as provided in this section.

(1) As used in this section:

(a) "County forces" means regular employees of a county; and

(b) "Road construction project costs" means the aggregate total of those costs as defined by the budgeting, accounting, and reporting system for counties and cities and other local governments authorized under RCW 43.09.200 and 43.09.230 as prescribed in the state auditor's budget, accounting, and reporting manual's (BARS) road and street construction accounts: PROVIDED, That such

costs shall not include those costs assigned to the right-of-way account, ancillary operations account, preliminary engineering account, and construction engineering account in the budget, accounting, and reporting manual.

(2) For counties with a population that equals or exceeds four hundred thousand people, the total amount of road construction project costs one county may perform annually with county forces shall be no more than the total of the following amounts:

(a) Three million two hundred fifty thousand dollars; and

(b) The previous year's county motor vehicle fuel tax distribution factor, as provided for in RCW 46.68.124(5), multiplied by the amount listed in (a) of this subsection.

(3) For counties with a population that equals or exceeds one hundred fifty thousand, but is less than four hundred thousand people, the total amount of road construction project costs one county may perform annually with county forces shall be no more than the total of the following amounts:

(a) One million seven hundred fifty thousand dollars; and

(b) The previous year's county motor vehicle fuel tax distribution factor, as provided for in RCW 46.68.124(5), multiplied by the amount listed in (a) of this subsection.

(4) For counties with a population that equals or exceeds thirty thousand, but is less than one hundred fifty thousand people, the total amount of road construction project costs one county may perform annually with county forces shall be no more than the total of the following amounts:

(a) One million one hundred fifty thousand dollars; this amount shall increase to one million two hundred fifty thousand dollars effective January 1, 2012; and

(b) The previous year's county motor vehicle fuel tax distribution factor, as provided for in RCW 46.68.124(5), multiplied by the amount listed in (a) of this subsection.

(5) For counties with a population that is less than thirty thousand people, the total amount of road construction project costs one county may perform annually with county forces shall be no more than the total of the following amounts:

(a) Seven hundred thousand dollars; this amount shall increase to eight hundred thousand dollars effective January 1, 2012; and

(b) The previous year's county motor vehicle fuel tax distribution factor, as provided for in RCW 46.68.124(5), multiplied by the amount listed in (a) of this subsection.

(6) Any county whose expenditure for county forces for road construction projects exceeds the limits specified in this section, is in violation of the county road administration board's standards of good practice under RCW 36.78.020 and is in violation of this section.

(7) Notwithstanding any other provision in this section, whenever the construction work or improvement is the installation of electrical traffic control devices, highway illumination equipment, electrical equipment, wires, or equipment to convey electrical current, in an amount exceeding (~~ten~~) forty thousand dollars for any one project including labor, equipment, and materials, such work shall be performed by contract as in this chapter provided. This section means a complete project and does not permit the construction of any

project by county forces by division of the project into units of work or classes of work.

Passed by the Senate April 23, 2019.

Passed by the House April 16, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 311

[Engrossed Senate Bill 5274]

PACIFIC ISLANDER DENTAL COVERAGE

AN ACT Relating to dental coverage for Pacific islanders residing in Washington; amending RCW 43.71A.020 and 43.71A.800; adding a new section to chapter 43.71A RCW; adding a new section to chapter 74.09 RCW; creating a new section; 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 legislature recognized the important relationship between the citizens of the compact of free association (COFA) nations and the United States by enacting the COFA premium assistance program in 2018 to pay for premiums and out-of-pocket expenses for COFA citizens who purchase qualifying health coverage;

(b) While other Washingtonians who are income-eligible for medicaid receive dental coverage through apple health, individuals enrolled in the COFA premium assistance program do not currently have affordable access to dental coverage;

(c) Affordable access to dental care, including preventative care, is critical to treating the whole body health of an individual and preventing systemic health problems such as stroke, heart attack, and diabetes. Poor oral health is also associated with a wide range of hardships including difficulty obtaining employment, work absences due to pain, and decreased productivity; and

(d) Research shows that people living in households in which the primary language spoken at home is not English, seniors, people with disabilities, and people who identify as Native Hawaiian or Pacific Islanders are disproportionately impacted by oral health inequities.

(2) The legislature therefore intends to increase access to dental services for COFA islanders residing in Washington by establishing a dental services program that provides dental coverage to income-eligible members of this population.

Sec. 2. RCW 43.71A.020 and 2018 c 161 s 3 are each amended to read as follows:

(1) An individual is eligible for the COFA premium assistance program if the individual:

(a) Is a resident;

(b) Is a COFA citizen;

(c) Enrolls in a silver qualified health plan;

(d) Has income that is less than one hundred thirty-three percent of the federal poverty level; and

(e) Is ineligible for a federal or state medical assistance program administered by the authority under chapter 74.09 RCW.

(2) Subject to the availability of amounts appropriated for this specific purpose, the authority shall pay the premium cost for a qualified health plan and the out-of-pocket costs for the coverage provided by the plan for an individual who is eligible for the premium assistance program under subsection (1) of this section.

(3) The authority may disqualify a participant from the program if the participant:

(a) No longer meets the eligibility criteria in subsection (1) of this section;

(b) Fails, without good cause, to comply with procedural or documentation requirements established by the authority in accordance with subsection (4) of this section;

(c) Fails, without good cause, to notify the authority of a change of address in a timely manner;

(d) Withdraws the participant's application or requests termination of coverage; or

(e) Performs an act, practice, or omission that constitutes fraud, and, as a result, an insurer rescinds the participant's policy for the qualified health plan.

(4) The authority shall establish:

(a) Application, enrollment, and renewal processes for the COFA premium assistance program;

(b) The qualified health plans that are eligible for reimbursement under the program;

(c) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the authority to administer the program; and

(d) Open enrollment periods and special enrollment periods consistent with the enrollment periods for the health ~~((insurance [health benefit]))~~ benefit exchange ~~(; and~~

~~(e) A comprehensive community education and outreach campaign, working with stakeholder and community organizations, to facilitate applications for, and enrollment in, the program. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach program shall provide culturally and linguistically accessible information to facilitate participation in the program, including but not limited to enrollment procedures, benefit utilization, and patient responsibilities.~~

~~(5) The community education and outreach campaign conducted by the authority must begin no later than September 1, 2018).~~

~~((6))~~ (5) The first open enrollment period for the COFA premium assistance program must begin no later than November 1, 2018.

NEW SECTION. Sec. 3. A new section is added to chapter 43.71A RCW to read as follows:

The authority, in consultation with the Washington state commission on Asian Pacific American affairs, shall establish an annual comprehensive community education and outreach program to COFA citizens, including contracting with a Washington organization that has multilingual language capacity, and working with stakeholder and community organizations, to facilitate applications for, and enrollment in, the COFA premium assistance and

dental care programs. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach program shall provide culturally and linguistically accessible information to facilitate participation in the programs, including but not limited to enrollment procedures, benefit utilization, and patient responsibilities.

NEW SECTION. Sec. 4. A new section is added to chapter 74.09 RCW to read as follows:

(1) The COFA islander dental care program is established to provide dental services to COFA citizens who meet the requirements in subsection (2) of this section. The authority shall begin administering this program by January 1, 2020.

(2) Subject to the availability of amounts appropriated for this specific purpose, the program shall provide dental services as covered under RCW 74.09.520 to an individual who is eligible for the COFA premium assistance program under RCW 43.71A.020, or:

(a) Is a resident;

(b) Is a COFA citizen;

(c) Has income that is less than one hundred thirty-three percent of the federal poverty level; and

(d) Is enrolled in medicare coverage under Title XVIII of the social security act (42 U.S.C. Sec. 1395 et seq., as amended).

(3) The authority may disqualify a participant from the program if the participant:

(a) No longer meets the eligibility criteria in subsection (2) of this section;

(b) Fails, without good cause, to comply with procedural or documentation requirements established by the authority in accordance with subsection (4) of this section;

(c) Fails, without good cause, to notify the authority of a change of address in a timely manner; or

(d) Withdraws the participant's application or requests termination of coverage.

(4) The authority shall establish:

(a) Application, enrollment, and renewal processes for the COFA islander dental care program; and

(b) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the authority to administer the program.

(5) For the purposes of this section, "COFA citizen" has the same meaning as in RCW 43.71A.010.

Sec. 5. RCW 43.71A.800 and 2018 c 161 s 4 are each amended to read as follows:

The authority shall appoint an advisory committee that includes, but is not limited to, insurers and representatives of communities of COFA citizens. The committee shall advise the authority in the development, implementation, and operation of the COFA premium assistance program established in this chapter and the COFA islander dental care program established in section 4 of this act. The advisory committee must exist until at least December 31, ~~((2019))~~ 2021. ~~((Subject to the availability of amounts appropriated for this specific purpose;))~~

Advisory committee members may be reimbursed for transportation and travel expenses related to serving on the committee, as needed.

***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.

**Sec. 6 was vetoed. See message at end of chapter.*

Passed by the Senate April 25, 2019.

Passed by the House April 12, 2019.

Approved by the Governor May 8, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 6, Engrossed Senate Bill No. 5274 entitled:

"AN ACT Relating to dental coverage for Pacific islanders residing in Washington."

I am vetoing section 6 because it is an unnecessary emergency clause. This veto will not disturb the substantive provisions of this bill, but will avoid confusion about the start date of the dental program. The dental program is funded to begin January 1, 2021, and outreach and engagement communications will begin 90 days from today under the normal enactment period of the bill.

For these reasons I have vetoed Section 6 of Engrossed Senate Bill No. 5274.

With the exception of Section 6, Engrossed Senate Bill No. 5274 is approved."

CHAPTER 312

[Engrossed Second Substitute Senate Bill 5290]

NONCRIMINAL YOUTH DETENTION--VALID COURT ORDER EXCEPTION

AN ACT Relating to eliminating the use of the valid court order exception to place youth in detention for noncriminal behavior; amending RCW 7.21.030, 7.21.030, 7.21.030, 71.21.030, 13.32A.250, 13.32A.250, 13.32A.250, 13.32A.150, 13.34.165, 13.34.165, 28A.225.090, 28A.225.090, 43.185C.260, 43.185C.265, and 2.56.032; adding a new section to chapter 7.21 RCW; creating a new section; repealing RCW 43.185C.270; repealing 1998 c 296 s 35 (uncodified); providing effective dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that it is a goal of our state to divert juveniles who have committed status offenses, behaviors that are prohibited under law only because of an individual's status as a minor, away from the juvenile justice system because a stay in detention is a predictive factor for future criminal justice system involvement. The legislature finds that Washington has been using the valid court order exception of the juvenile justice and delinquency prevention act, a loophole in federal law allowing judges to detain status offenders for disobeying court orders, more than any other state in the country. The legislature finds that use of the valid court order exception to detain youth for acts like truancy, breaking curfew, or running away from home is counterproductive and may worsen outcomes for at-risk youth.

(2) The legislature further finds that these youth should not be confined with or treated with the same interventions as criminal offenders. The legislature also finds that studies show a disproportionality in race, gender, and socioeconomic

status of youth referred to courts or detained, or both. Likewise, the legislature finds that community-based interventions are more effective at addressing underlying causes of status offenses than detention and can reduce court caseloads and lower system costs. As a result, it is the intent of the legislature to strengthen and fund community-based programs that are culturally relevant and focus on addressing disproportionality of youth of color, especially at-risk youth.

(3) The legislature finds that appropriate interventions may include secure, semi-secure, and nonsecure out-of-home placement options, community-based mentoring, counseling, family reconciliation, behavioral health services, and other services designed to support youth and families in crisis and to prevent the need for out-of-home placement. The legislature recognizes that in certain circumstances, a court may find pursuant to this act that less restrictive alternatives to secure confinement are not available or appropriate and that clear, cogent, and convincing evidence requires commitment to a secure residential program with intensive wraparound services. The legislature intends to expand the availability of such interventions statewide by July 1, 2023.

NEW SECTION. Sec. 2. A new section is added to chapter 7.21 RCW to read as follows:

(1) It is the policy of the state of Washington to eliminate the use of juvenile detention as a remedy for contempt of a valid court order for youth under chapters 13.34 and 28A.225 RCW and child in need of services petition youth under chapter 13.32A RCW.

(a) Beginning July 1, 2020, youth may not be committed to juvenile detention as a contempt sanction under chapter 13.34 RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(b) Beginning July 1, 2020, youth may not be committed to juvenile detention as a contempt sanction for child in need of services proceedings under chapter 13.32A RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(c) Beginning July 1, 2021, youth may not be committed to juvenile detention as a contempt sanction for truancy proceedings under chapter 28A.225 RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(2)(a) It is also the policy of the state of Washington to entirely phase out the use of juvenile detention as a remedy for contempt of a valid court order for at-risk youth under chapter 13.32A RCW by July 1, 2023. After this date, at-risk youth may not be committed to juvenile detention as a contempt sanction under chapter 13.32A RCW, and a warrant may not be issued for failure to appear at a court hearing that requires commitment of the at-risk youth to juvenile detention.

(b) Until July 1, 2023, any at-risk youth committed to juvenile detention as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, must be detained in such a manner so that no direct communication or physical contact may be made between the youth and any youth who is detained to juvenile detention pursuant to a violation of criminal law, unless these separation requirements would result in a youth being detained in solitary confinement.

(c) After July 1, 2023, at-risk youth may be committed to a secure residential program with intensive wraparound services, subject to the requirements under RCW 13.32A.250, as a remedial sanction for contempt under chapter 13.32A RCW or for failure to appear at a court hearing under chapter 13.32A RCW.

Sec. 3. RCW 7.21.030 and 2001 c 260 s 6 are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In cases under chapters 13.32A, 13.34, and 28A.225 RCW and subject to the requirements under RCW 13.32A.250 and 28A.225.090, commitment to juvenile detention for a period of time not to exceed ~~((seven days))~~ seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt under chapter 13.32A, 13.34, or 28A.225 RCW, or for failure to appear at a court hearing under chapter 13.32A, 13.34, or 28A.225 RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt under chapter 13.32A, 13.34, or 28A.225 RCW, or for failure to appear at a court hearing under chapter 13.32A, 13.34, or 28A.225 RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 4. RCW 7.21.030 and 2019 c ... s 3 (section 3 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter ~~(§) 13.32A~~~~(; 13.34;)~~ RCW and in cases under chapter 28A.225 RCW and subject to the requirements under RCW 13.32A.250 and 28A.225.090, commitment to juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt in at-risk youth petition cases only under chapter ~~13.32A~~~~(; 13.34;)~~ RCW or for cases under chapter 28A.225 RCW, or for failure to appear at a court

hearing in at-risk youth petition cases only under chapter 13.32A(~~(,13.34,)~~) RCW or for cases under chapter 28A.225 RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A(~~(,13.34,)~~) RCW or for cases under chapter 28A.225 RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A(~~(,13.34,)~~) RCW or for cases under chapter 28A.225 RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 5. RCW 7.21.030 and 2019 c ... s 4 (section 4 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter 13.32A RCW (~~and in cases under chapter 28A.225 RCW~~) and subject to the requirements under RCW 13.32A.250 (~~and 28A.225.090~~), commitment to juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Prior to committing any youth to juvenile detention as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A RCW (~~or for cases under chapter 28A.225 RCW~~), or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW (~~or for cases under chapter 28A.225 RCW~~), the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A RCW (~~or for cases under chapter 28A.225 RCW~~), or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW (~~or for cases under chapter 28A.225 RCW~~), shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 6. RCW 7.21.030 and 2019 c ... s 5 (section 5 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter 13.32A RCW and subject to the requirements under RCW 13.32A.250, commitment to ~~((juvenile detention for a period of time not to exceed seventy two hours, excluding Saturdays, Sundays, and holidays. The seventy two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction))~~ a secure residential program with intensive wraparound services.

(ii) Beginning July 1, 2023, prior to committing any youth to ((juvenile detention)) a secure residential program with intensive wraparound services as a sanction for contempt in at-risk youth petition cases only under chapter 13.32A RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW, the court must:

(A) Consider, on the record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) ~~((Detention periods for youth sanctioned to juvenile detention for contempt in at-risk youth petition cases only under chapter 13.32A RCW, or for failure to appear at a court hearing in at-risk youth petition cases only under chapter 13.32A RCW, shall be:~~

~~(A) No more than seventy two hours, regardless of the number of violations being considered at the hearing; and~~

~~(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.~~

~~(iv))~~ Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

Sec. 7. RCW 13.32A.250 and 2000 c 162 s 14 are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3)(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to ~~(seven days))~~ seventy-two hours, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

~~((4))~~ (ii) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

~~((5))~~ (4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

~~((6))~~ (5) Whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention. ~~((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))~~

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 8. RCW 13.32A.250 and 2019 c ... s 7 (section 7 of this act) are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to seventy-two hours, or both for

contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

(ii) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 9. RCW 13.32A.250 and 2019 c ... s 8 (section 8 of this act) are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement (~~((for up to seventy-two hours))~~ to a secure residential program with intensive wraparound services, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. (~~((The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.))~~)

(ii) A child placed in confinement for contempt under this section (~~((shall))~~ may be placed in (~~((confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county))~~ a secure crisis residential center or any program approved by the department offering secure confinement and intensive wraparound services appropriate to the needs of the child. The child may not be placed in a detention facility as defined in RCW 13.40.020. Secure residential programs with intensive wraparound services as used in this section may be defined as secure juvenile correctional facilities for the purposes of federal law only.

(c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails

to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 10. RCW 13.32A.150 and 2000 c 123 s 17 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the juvenile court shall not accept the filing of a child in need of services petition by the child or the parents or the filing of an at-risk youth petition by the parent, unless verification is provided that the department has completed a family assessment. The family assessment shall involve the multidisciplinary team if one exists. The family assessment or plan of services developed by the multidisciplinary team shall be aimed at family reconciliation, reunification, and avoidance of the out-of-home placement of the child. ~~((If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section or the parent may proceed under RCW 13.32A.191.))~~

(2) A child or a child's parent may file with the juvenile court a child in need of services petition to approve an out-of-home placement for the child before completion of a family assessment. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition must be filed in the county where the parent resides. The petition shall allege that the child is a child in need of services and shall ask only that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve the placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an out-of-home placement under this chapter.

(3) A petition may not be filed if the child is the subject of a proceeding under chapter 13.34 RCW.

Sec. 11. RCW 13.34.165 and 2000 c 122 s 21 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in RCW 7.21.030(2)~~((+))~~.

(2) The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to ~~((seven days))~~ seventy-two hours.

(3) A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

(5)~~(a)~~ Subject to (b) of this subsection, whenever the court finds probable cause to believe, based upon consideration of a motion ~~((for contempt))~~ and the information set forth in a supporting declaration, that a child ~~((has violated a placement order entered under this chapter))~~ is missing from care, the court may issue an order directing law enforcement to pick up and ~~((take))~~ return the child

to ~~((detention))~~ department custody. ~~((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))~~

(b) If the department is notified of the child's whereabouts and authorizes the child's location, the court must withdraw the order directing law enforcement to pick up and return the child to department custody.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 12. RCW 13.34.165 and 2019 c ... s 11 (section 11 of this act) are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in RCW 7.21.030(2).

~~(2) ((The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to seventy-two hours.~~

~~(3) A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.~~

~~(4))~~ A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

~~((5))~~ (3)(a) Subject to (b) of this subsection, whenever the court finds probable cause to believe, based upon consideration of a motion and the information set forth in a supporting declaration, that a child is missing from care, the court may issue an order directing law enforcement to pick up and return the child to department custody.

(b) If the department is notified of the child's whereabouts and authorizes the child's location, the court must withdraw the order directing law enforcement to pick up and return the child to department custody.

~~((6))~~ (4) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

Sec. 13. RCW 28A.225.090 and 2017 c 291 s 5 are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the

child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(2)(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than ~~(seven days)~~ seventy-two hours. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present.

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its

duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as meaningful community restitution. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

Sec. 14. RCW 28A.225.090 and 2019 c ... s 13 (section 13 of this act) are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this

subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(2)((~~+~~)) If the child fails to comply with the court order, the court may impose:

((~~+~~)) (a) Community restitution;

((~~+~~)) (b) Nonresidential programs with intensive wraparound services;

((~~+~~)) (c) A requirement that the child meet with a mentor for a specified number of times; or

((~~+~~)) (d) Other services and interventions that the court deems appropriate.

~~((b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than seventy-two hours. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present.))~~

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may ~~((order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may))~~ impose alternatives to detention ~~((such as meaningful community restitution. Failure by a child to~~

~~comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW))~~ consistent with best practice models for reengagement with school.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

Sec. 15. RCW 43.185C.260 and 2018 c 58 s 61 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement(~~); or~~

~~(d) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued under this chapter or chapter 13.34 RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter or chapter 13.34 RCW)).~~

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall

remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) No child may be placed in a secure facility except as provided in this chapter.

Sec. 16. RCW 43.185C.265 and 2015 c 69 s 14 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 43.185C.260(1) (a) or (b) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department of (~~social and health services~~) children, youth, and families, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a reasonable distance of the parent's home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance if:

(i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of abuse or neglect;

(ii) It is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) There is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, request the department of (~~social and health services~~) children, youth, and families to accept custody of the child. If the department of (~~social and health services~~) children, youth, and families determines that an appropriate placement is currently available, the department of (~~social and health services~~) children, youth, and families shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department of (~~social and health services~~) children, youth, and families may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition, obtaining parental consent, or obtaining an order for placement under chapter 13.34 RCW. Upon transferring a child to the department of (~~social and health services~~) children, youth, and families' custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department of (~~social and health services~~) children, youth, and families declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth shelter. The officer shall immediately notify the department of (~~social and health~~

services)) children, youth, and families if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 43.185C.260(1)(c) ~~((or (d))~~) shall inform the child of the reason for custody. An officer taking a child into custody under RCW 43.185C.260(1)(c) may release the child to the supervising agency, may return the child to the placement authorized by the supervising agency, or shall take the child to a designated crisis residential center ~~((s secure facility. If the secure facility is not available, not located within a reasonable distance, or full, the officer shall take the child to a semi-secure crisis residential center. An officer taking a child into custody under RCW 43.185C.260(1)(d) may place the child in a juvenile detention facility as provided in RCW 43.185C.270 or a secure facility, except that the child shall be taken to detention whenever the officer has been notified that a juvenile court has entered a detention order under this chapter or chapter 13.34 RCW))~~.

(3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 43.185C.290(6).

(4) Whenever an officer transfers custody of a child to a crisis residential center or the department of ~~((social and health services))~~ children, youth, and families, the child may reside in the crisis residential center or may be placed by the department of ~~((social and health services))~~ children, youth, and families in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.

(5) The department of ~~((social and health services))~~ children, youth, and families shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 43.185C.260 may be taken.

Sec. 17. RCW 2.56.032 and 2016 c 205 s 19 are each amended to read as follows:

(1)(a) To accurately track the extent to which courts order youth into a secure detention facility in Washington state for the violation of a court order related to a truancy, at-risk youth, or a child in need of services petition, all juvenile courts shall transmit youth-level secure detention data to the administrative office of the courts.

(b) Data may either be entered into the statewide management information system for juvenile courts or securely transmitted to the administrative office of the courts at least monthly. Juvenile courts shall provide, at a minimum, the name and date of birth for the youth, the court case number assigned to the petition, the reasons for admission to the juvenile detention facility, the date of admission, the date of exit, and the time the youth spent in secure confinement.

(c) Courts are also encouraged to report individual-level data reflecting whether a detention alternative, such as electronic monitoring, was used, and the time spent in detention alternatives.

(d) The administrative office of the courts and the juvenile court administrators must work to develop uniform data standards for detention.

(2) The administrative office of the courts shall deliver an annual statewide report to the legislature that details the number of Washington youth who are placed into detention facilities during the preceding calendar year. The first report shall be delivered by March 1, 2017, and shall detail the most serious reason for detention and youth gender, race, and ethnicity. The report must have a specific emphasis on youth who are detained for reasons relating to a truancy, at-risk youth, or a child in need of services petition. The report must:

(a) Consider the written findings described in RCW 7.21.030(2)(c)(ii)(B), and provide an analysis of the rationale and evidence used and the less restrictive options considered;

(b) Monitor the utilization of alternatives to detention;

(c) Track trends in the use of at-risk youth petitions;

(d) Track trends in the use of secure residential programs with intensive wraparound services; and

(e) Track the race and gender of youth with at-risk petitions.

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

(1) RCW 43.185C.270 (Youth services—Officer taking child into custody—Placing in detention—Detention review hearing—Hearing on contempt) and 2015 c 69 s 15; and

(2) 1998 c 296 s 35 (uncodified).

NEW SECTION. Sec. 19. Except for sections 4, 5, 6, 8, 9, 12, and 14 of this act, this necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

NEW SECTION. Sec. 20. Sections 4, 8, and 12 of this act take effect July 1, 2020.

NEW SECTION. Sec. 21. Sections 5 and 14 of this act take effect July 1, 2021.

NEW SECTION. Sec. 22. Sections 6 and 9 of this act take effect July 1, 2023.

Passed by the Senate April 28, 2019.

Passed by the House April 27, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 313

[Senate Bill 5360]

DEFAULT RETIREMENT PLAN--PERS, TRS, AND SERS

AN ACT Relating to plan membership default provisions in the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system; amending RCW 41.32.835, 41.35.610, and 41.40.785; and declaring an emergency.

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

Sec. 1. RCW 41.32.835 and 2007 c 491 s 3 are each amended to read as follows:

(1) All teachers who first become employed by an employer in an eligible position on or after July 1, 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3 or plan 2 as follows:

(a) Becomes a member of plan 3 if first employed by an employer in an eligible position on or after July 1, 2007, but prior to July 1, 2020;

(b) Becomes a member of plan 2 if first employed by an employer in an eligible position on or after July 1, 2020.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

~~((3) The plan choice provision as set forth in section 3, chapter 491, Laws of 2007 was intended by the legislature as a replacement benefit for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to plan choice under this section is noncontractual, and the legislature reserves the right to amend or repeal this section. 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, all teachers who first become employed by an employer in an eligible position on or after July 1, 2007, may choose either plan 2 or plan 3 under this section. 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 all teachers who first become employed by an employer in an eligible position on or after the date of such reinstatement shall be members of plan 3.))~~

Sec. 2. RCW 41.35.610 and 2007 c 491 s 7 are each amended to read as follows:

(1) All classified employees who first become employed by an employer in an eligible position on or after July 1, 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3 or plan 2 as follows:

(a) Becomes a member of plan 3 if first employed by an employer in an eligible position on or after July 1, 2007, but prior to July 1, 2020;

(b) Becomes a member of plan 2 if first employed by an employer in an eligible position on or after July 1, 2020.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

~~((3) The plan choice provision as set forth in section 7, chapter 491, Laws of 2007 was intended by the legislature as a replacement benefit for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to plan choice under this section is noncontractual, and the legislature reserves the right to amend or repeal this section. 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, all classified employees who first become employed by an employer in an eligible position on or after July 1, 2007, may choose either plan 2 or plan 3 under this section. 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 all classified employees who first become employed by an employer in an eligible position on or after the date of such reinstatement shall be members of plan 3.))~~

Sec. 3. RCW 41.40.785 and 2000 c 247 s 302 are each amended to read as follows:

(1) All employees who first become employed by an employer in an eligible position on or after March 1, 2002, for state agencies or institutes of higher education, or September 1, 2002, for other employers, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3 or plan 2 as follows:

(a) Becomes a member of plan 3 if first employed by an employer in an eligible position on or after March 1, 2002, but prior to July 1, 2020, for state agencies or institutions of higher education, or on or after September 1, 2002, but prior to July 1, 2020, for other employers;

(b) Becomes a member of plan 2 if first employed by an employer in an eligible position on or after July 1, 2020.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default pursuant to subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

NEW SECTION. **Sec. 4.** 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. 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 immediately.

**Sec. 5 was vetoed. See message at end of chapter.*

Passed by the Senate April 26, 2019.

Passed by the House April 16, 2019.

Approved by the Governor May 8, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 5, Senate Bill No. 5360 entitled:

"AN ACT Relating to plan membership default provisions in the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system."

Section 5 of this bill declares an emergency and makes the bill effective immediately. However, the bill as it passed the legislature makes the provisions of the bill effective a year later than the date in the original bill. This change means that the emergency clause is no longer needed.

For these reasons I have vetoed Section 5 of Senate Bill No. 5360.

With the exception of Section 5, Senate Bill No. 5360 is approved."

CHAPTER 314

[Substitute Senate Bill 5380]

OPIOID USE DISORDER

AN ACT Relating to opioid use disorder treatment, prevention, and related services; amending RCW 69.41.055, 69.41.095, 70.41.480, 70.168.090, 70.225.010, 70.225.040, 71.24.011, 71.24.560, 71.24.585, 71.24.590, 71.24.595, 28A.210.260, and 28A.210.270; amending 2005 c 70 s 1 (uncodified); reenacting and amending RCW 69.50.312, 69.50.312, 70.225.020, and 71.24.580; adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.64 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; adding new sections to chapter 43.70 RCW; adding a new section to chapter 69.50 RCW; adding a new section to chapter 70.225 RCW; adding new sections to chapter 71.24 RCW; adding new sections to chapter 74.09 RCW; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.43 RCW; adding new sections to chapter 28A.210 RCW; adding a new section to chapter 28B.10 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 declares that opioid use disorder is a public health crisis. State agencies must increase access to evidence-based opioid use disorder treatment services, promote coordination of services within the substance use disorder treatment and recovery support system, strengthen partnerships between opioid use disorder treatment providers and their allied community partners, expand the use of the Washington state prescription drug monitoring program, and support comprehensive school and community-based substance use prevention services.

This act leverages the direction provided by the Washington state interagency opioid working plan in order to address the opioid epidemic challenging communities throughout the state.

Agencies administering state purchased health care programs, as defined in RCW 41.05.011, shall coordinate activities to implement the provisions of this act and the Washington state interagency opioid working plan, explore opportunities to address the opioid epidemic, and provide status updates as directed by the joint legislative executive committee on health care oversight to promote legislative and executive coordination.

Sec. 2. 2005 c 70 s 1 (uncodified) is amended to read as follows:

The legislature finds that drug use among pregnant ~~((women))~~ individuals is a significant and growing concern statewide. ~~((The legislature further finds that methadone, although an effective alternative to other substance use treatments, can result in babies who are exposed to methadone while in utero being born addicted and facing the painful effects of withdrawal.))~~ Evidence-informed group prenatal care reduces preterm birth for infants, and increases maternal social cohesion and support during pregnancy and postpartum, which is good for maternal mental health.

It is the intent of the legislature to notify all pregnant ~~((mothers))~~ individuals who are receiving ~~((methadone treatment))~~ medication for the treatment of opioid use disorder of the risks and benefits ~~((methadone))~~ such medication could have on their baby during pregnancy through birth and to inform them of the potential need for the newborn baby to be ~~((taken care of))~~ treated in a hospital setting or in a specialized supportive environment designed specifically to address ~~((newborn addiction problems))~~ and manage neonatal opioid or other drug withdrawal syndromes.

NEW SECTION. Sec. 3. A new section is added to chapter 18.22 RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require podiatric physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the podiatric physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 4. A new section is added to chapter 18.32 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require dentists who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the dentist must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 5. A new section is added to chapter 18.57 RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require osteopathic physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the osteopathic physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 6. A new section is added to chapter 18.57A RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require osteopathic physicians' assistants who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the osteopathic physician's assistant must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 7. A new section is added to chapter 18.64 RCW to read as follows:

A pharmacist may partially fill a prescription for a schedule II controlled substance, if the partial fill is requested by the patient or the prescribing practitioner and the total quantity dispensed in all partial fillings does not exceed the quantity prescribed.

NEW SECTION. Sec. 8. A new section is added to chapter 18.71 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 9. A new section is added to chapter 18.71A RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require physician assistants who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the physician assistant must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 10. A new section is added to chapter 18.79 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require advanced registered nurse practitioners who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the advanced registered nurse practitioner must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 11. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department must create a statement warning individuals about the risks of opioid use and abuse and provide information about safe disposal of opioids. The department must provide the warning on its web site.

(2) The department must review the science, data, and best practices around the use of opioids and their associated risks. As evidence and best practices evolve, the department must update its warning to reflect these changes.

(3) The department must update its patient education materials to reflect the patient's right to refuse an opioid prescription or order.

NEW SECTION. Sec. 12. A new section is added to chapter 43.70 RCW to read as follows:

The secretary shall be responsible for coordinating the statewide response to the opioid epidemic and executing the state opioid response plan, in partnership with the health care authority. The department and the health care authority must collaborate with each of the agencies and organizations identified in the state opioid response plan.

Sec. 13. RCW 69.41.055 and 2016 c 148 s 15 are each amended to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription or order for a legend drug;

~~(b) ((The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the commission. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission;~~

~~(e))~~ An explicit opportunity for practitioners must be made to indicate their preference on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted. This section does not limit the ability of practitioners and pharmacists to permit substitution by default under a prior-consent authorization;

~~((d))~~ (c) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

~~((e))~~ (d) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records~~((-~~ The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures)); and

~~((f))~~ (e) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The electronic or digital signature of the prescribing practitioner's agent on behalf of the prescribing practitioner for a resident in a long-term care facility or hospice program, pursuant to a valid order and authorization under RCW 18.64.550, constitutes a valid electronic communication of prescription information. Such an authorized signature and transmission by an agent in a long-term care facility or hospice program does not constitute an intervening person having access to the prescription drug order.

(3) The commission may adopt rules implementing this section.

Sec. 14. RCW 69.41.095 and 2015 c 205 s 2 are each amended to read as follows:

(1)(a) A practitioner may prescribe, dispense, distribute, and deliver an opioid overdose reversal medication: (i) Directly to a person at risk of experiencing an opioid-related overdose; or (ii) by prescription, collaborative drug therapy agreement, standing order, or protocol to a first responder, family member, or other person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. Any such prescription, standing order, or protocol (~~(order)~~) is issued for a legitimate medical purpose in the usual course of professional practice.

(b) At the time of prescribing, dispensing, distributing, or delivering the opioid overdose reversal medication, the practitioner shall inform the recipient that as soon as possible after administration of the opioid overdose reversal medication, the person at risk of experiencing an opioid-related overdose should be transported to a hospital or a first responder should be summoned.

(2) A pharmacist may dispense an opioid overdose reversal medication pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with subsection (1)(a) of this section and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate (~~(medication))~~ medical attention must be conspicuously displayed.

(3) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a prescription (~~(or)~~), collaborative drug therapy agreement, standing order, or protocol issued by a practitioner in accordance with subsection (1) of this section.

(4) The following individuals, if acting in good faith and with reasonable care, are not subject to criminal or civil liability or disciplinary action under chapter 18.130 RCW for any actions authorized by this section or the outcomes of any actions authorized by this section:

(a) A practitioner who prescribes, dispenses, distributes, or delivers an opioid overdose reversal medication pursuant to subsection (1) of this section;

(b) A pharmacist who dispenses an opioid overdose reversal medication pursuant to subsection (2) or (5)(a) of this section;

(c) A person who possesses, stores, distributes, or administers an opioid overdose reversal medication pursuant to subsection (3) of this section.

(5) The secretary or the secretary's designee may issue a standing order prescribing opioid overdose reversal medications to any person at risk of experiencing an opioid-related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. The standing order may be limited to specific areas in the state or issued statewide.

(a) A pharmacist shall dispense an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection, consistent with the pharmacist's responsibilities to dispense prescribed legend drugs, and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for

seeking immediate medical attention. The instructions to seek immediate medical attention must be conspicuously displayed.

(b) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection (5). The department, in coordination with the appropriate entity or entities, shall ensure availability of a training module that provides training regarding the identification of a person suffering from an opioid-related overdose and the use of opioid overdose reversal medications. The training must be available electronically and in a variety of media from the department.

(c) This subsection (5) does not create a private cause of action. Notwithstanding any other provision of law, neither the state nor the secretary nor the secretary's designee has any civil liability for issuing standing orders or for any other actions taken pursuant to this chapter or for the outcomes of issuing standing orders or any other actions taken pursuant to this chapter. Neither the secretary nor the secretary's designee is subject to any criminal liability or professional disciplinary action for issuing standing orders or for any other actions taken pursuant to this chapter.

(d) For purposes of this subsection (5), "standing order" means an order prescribing medication by the secretary or the secretary's designee. Such standing order can only be issued by a practitioner as defined in this chapter.

(6) The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed, distributed, or delivered pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with this section. The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section shall ensure that directions for use are provided.

(7) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "First responder" means: (i) A career or volunteer firefighter, law enforcement officer, paramedic as defined in RCW 18.71.200, or first responder or emergency medical technician as defined in RCW 18.73.030; and (ii) an entity that employs or supervises an individual listed in (a)(i) of this subsection, including a volunteer fire department.

(b) "Opioid overdose reversal medication" means any drug used to reverse an opioid overdose that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include intentional administration via the intravenous route.

(c) "Opioid-related overdose" means a condition including, but not limited to, ~~((extreme physical illness,))~~ decreased level of consciousness, nonresponsiveness, respiratory depression, coma, or death that: (i) Results from the consumption or use of an opioid or another substance with which an opioid was combined; or (ii) a lay person would reasonably believe to be an opioid-related overdose requiring medical assistance.

(d) "Practitioner" means a health care practitioner who is authorized under RCW 69.41.030 to prescribe legend drugs.

(e) "Standing order" or "protocol" means written or electronically recorded instructions, prepared by a prescriber, for distribution and administration of a

drug by designated and trained staff or volunteers of an organization or entity, as well as other actions and interventions to be used upon the occurrence of clearly defined clinical events in order to improve patients' timely access to treatment.

Sec. 15. RCW 69.50.312 and 2013 c 276 s 4 and 2013 c 19 s 105 are each reenacted and amended to read as follows:

(1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V(~~((f, g))~~), may be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) The system used for transmitting electronically communicated prescription information must ~~((be approved by the commission and in accordance))~~ comply with federal rules for electronically communicated prescriptions for controlled substance(~~((f, g))~~)s included in Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300, 1304, 1306, and 1311(~~(-This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission))~~);

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records(~~(-The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures))~~); and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The commission may adopt rules implementing this section.

Sec. 16. RCW 69.50.312 and 2013 c 276 s 4 and 2013 c 19 s 105 are each reenacted and amended to read as follows:

(1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V(~~((f, g))~~)

~~may~~), must be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

~~(b) ((The system used for transmitting electronically communicated prescription information must be approved by the commission and in accordance with federal rules for electronically communicated prescriptions for controlled substance[s] included in Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300, 1304, 1306, and 1311. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission;~~

~~(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;~~

~~(d))~~ Prescription drug orders ~~((are confidential health information, and))~~ may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

~~((e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and~~

~~(f))~~ (c) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

~~(2) ((The commission may adopt rules implementing this section.))~~ The following are exempt from subsection (1) of this section:

(a) Prescriptions issued by veterinarians, as that practice is defined in RCW 18.92.010;

(b) Prescriptions issued for a patient of a long-term care facility as defined in RCW 18.64.011, or a hospice program as defined in RCW 18.64.011;

(c) When the electronic system used for the communication of prescription information is unavailable due to a temporary technological or electronic failure;

(d) Prescriptions issued that are intended for prescription fulfillment and dispensing outside Washington state;

(e) When the prescriber and pharmacist are employed by the same entity, or employed by entities under common ownership or control;

(f) Prescriptions issued for a drug that the United States food and drug administration or the United States drug enforcement administration requires to contain certain elements that are not able to be accomplished electronically;

(g) Any controlled substance prescription that requires compounding as defined in RCW 18.64.011;

(h) Prescriptions issued for the dispensing of a nonpatient specific prescription under a standing order, approved protocol for drug therapy, collaborative drug therapy agreement, in response to a public health emergency, or other circumstances allowed by statute or rule where a practitioner may issue a nonpatient specific prescription;

(i) Prescriptions issued under a drug research protocol;

(j) Prescriptions issued by a practitioner with the capability of electronic communication of prescription information under this section, when the practitioner reasonably determines it is impractical for the patient to obtain the electronically communicated prescription in a timely manner, and such delay would adversely impact the patient's medical condition; or

(k) Prescriptions issued by a prescriber who has received a waiver from the department.

(3) The department must develop a waiver process for the requirements of subsection (1) of this section for practitioners due to economic hardship, technological limitations that are not reasonably in the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner. The waiver must be limited to one year or less, or for any other specified time frame set by the department.

(4) A pharmacist who receives a written, oral, or faxed prescription is not required to verify that the prescription properly meets any exemptions under this section. Pharmacists may continue to dispense and deliver medications from otherwise valid written, oral, or faxed prescriptions.

(5) An individual who violates this section commits a civil violation. Disciplinary authorities may impose a fine of two hundred fifty dollars per violation, not to exceed five thousand dollars per calendar year. Fines imposed under this section must be allocated to the health professions account.

(6) Systems used for the electronic communication of prescription information must:

(a) Comply with federal laws and rules for electronically communicated prescriptions for controlled substances included in Schedules II through V, as required by Title 21 C.F.R. parts 1300, 1304, 1306, and 1311;

(b) Meet the national council for prescription drug prescriber/pharmacist interface SCRIPT standard as determined by the department in rule;

(c) Have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records;

(d) Provide an explicit opportunity for practitioners to indicate their preference on whether a therapeutically equivalent generic drug may be substituted; and

(e) Include the capability to input and track partial fills of a controlled substance prescription in accordance with section 7 of this act.

NEW SECTION, Sec. 17. A new section is added to chapter 69.50 RCW to read as follows:

(1) Any practitioner who writes the first prescription for an opioid during the course of treatment to any patient must, under professional rules, discuss the following with the patient:

(a) The risks of opioids, including risk of dependence and overdose;

(b) Pain management alternatives to opioids, including nonopioid pharmacological treatments, and nonpharmacological treatments available to the patient, at the discretion of the practitioner and based on the medical condition of the patient; and

(c) A written copy of the warning language provided by the department under section 11 of this act.

(2) If the patient is under eighteen years old or is not competent, the discussion required by subsection (1) of this section must include the patient's parent, guardian, or the person identified in RCW 7.70.065, unless otherwise provided by law.

(3) The practitioner shall document completion of the requirements in subsection (1) of this section in the patient's health care record.

(4) To fulfill the requirements of subsection (1) of this section, a practitioner may designate any individual who holds a credential issued by a disciplining authority under RCW 18.130.040 to conduct the discussion.

(5) Violation of this section constitutes unprofessional conduct under chapter 18.130 RCW.

(6) This section does not apply to:

(a) Opioid prescriptions issued for the treatment of pain associated with terminal cancer or other terminal diseases, or for palliative, hospice, or other end-of-life care of where the practitioner determines the health, well-being, or care of the patient would be compromised by the requirements of this section and documents such basis for the determination in the patient's health care record; or

(b) Administration of an opioid in an inpatient or outpatient treatment setting.

(7) This section does not apply to practitioners licensed under chapter 18.92 RCW.

(8) The department shall review this section by March 31, 2026, and report to the appropriate committees of the legislature on whether this section should be retained, repealed, or amended.

Sec. 18. RCW 70.41.480 and 2015 c 234 s 1 are each amended to read as follows:

(1) The legislature finds that high quality, safe, and compassionate health care services for patients of Washington state must be available at all times. The legislature further finds that there is a need for patients being released from hospital emergency departments to maintain access to emergency medications when community or hospital pharmacy services are not available, including medication for opioid overdose reversal and for the treatment for opioid use disorder as appropriate. It is the intent of the legislature to accomplish this objective by allowing practitioners with prescriptive authority to prescribe limited amounts of prepackaged emergency medications to patients being discharged from hospital emergency departments when access to community or outpatient hospital pharmacy services is not otherwise available.

(2) A hospital may allow a practitioner to prescribe prepackaged emergency medications and allow a practitioner or a registered nurse licensed under chapter 18.79 RCW to distribute prepackaged emergency medications to patients being discharged from a hospital emergency department in the following circumstances:

(a) During times when community or outpatient hospital pharmacy services are not available within fifteen miles by road ((☞));

(b) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient has no reasonable ability to reach the local community or outpatient pharmacy; or

(c) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient is at risk of opioid overdose and the prepackaged emergency medication being distributed is an opioid overdose reversal medication. The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed, distributed, or delivered pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with this section. The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section must ensure that directions for use are provided.

(3) A hospital may only allow this practice if: The director of the hospital pharmacy, in collaboration with appropriate hospital medical staff, develops policies and procedures regarding the following:

(a) Development of a list, preapproved by the pharmacy director, of the types of emergency medications to be prepackaged and distributed;

(b) Assurances that emergency medications to be prepackaged pursuant to this section are prepared by a pharmacist or under the supervision of a pharmacist licensed under chapter 18.64 RCW;

(c) Development of specific criteria under which emergency prepackaged medications may be prescribed and distributed consistent with the limitations of this section;

(d) Assurances that any practitioner authorized to prescribe prepackaged emergency medication or any nurse authorized to distribute prepackaged emergency medication is trained on the types of medications available and the circumstances under which they may be distributed;

(e) Procedures to require practitioners intending to prescribe prepackaged emergency medications pursuant to this section to maintain a valid prescription either in writing or electronically in the patient's records prior to a medication being distributed to a patient;

(f) Establishment of a limit of no more than a forty-eight hour supply of emergency medication as the maximum to be dispensed to a patient, except when community or hospital pharmacy services will not be available within forty-eight hours. In no case may the policy allow a supply exceeding ninety-six hours be dispensed;

(g) Assurances that prepackaged emergency medications will be kept in a secure location in or near the emergency department in such a manner as to preclude the necessity for entry into the pharmacy; and

(h) Assurances that nurses or practitioners will distribute prepackaged emergency medications to patients only after a practitioner has counseled the patient on the medication.

~~((3))~~ (4) The delivery of a single dose of medication for immediate administration to the patient is not subject to the requirements of this section.

~~((4))~~ (5) Nothing in this section restricts the authority of a practitioner in a hospital emergency department to distribute opioid overdose reversal medication under RCW 69.41.095.

(6) For purposes of this section:

(a) "Emergency medication" means any medication commonly prescribed to emergency ~~(room)~~ department patients, including those drugs, substances or immediate precursors listed in schedules II through V of the uniform controlled substances act, chapter 69.50 RCW, as now or hereafter amended.

(b) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(c) "Practitioner" means any person duly authorized by law or rule in the state of Washington to prescribe drugs as defined in RCW 18.64.011~~((24))~~ (29).

(d) "Nurse" means a registered nurse as defined in RCW 18.79.020.

Sec. 19. RCW 70.168.090 and 2010 c 52 s 5 are each amended to read as follows:

(1)~~(a)~~ By July 1991, the department shall establish a statewide data registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury. The department shall collect additional data on traumatic brain injury should additional data requirements be enacted by the legislature. The registry shall be used to improve the availability and delivery of prehospital and hospital trauma care services. Specific data elements of the registry shall be defined by rule by the department. To the extent possible, the department shall coordinate data collection from hospitals for the trauma registry with the health care data system authorized in chapter 70.170 RCW. Every hospital, facility, or health care provider authorized to provide level I, II, III, IV, or V trauma care services, level I, II, or III pediatric trauma care services, level I, level I-pediatric, II, or III trauma-related rehabilitative services, and prehospital trauma-related services in the state shall furnish data to the registry. All other hospitals and prehospital providers shall furnish trauma data as required by the department by rule.

(b) The department may respond to requests for data and other information from the registry for special studies and analysis consistent with requirements for confidentiality of patient and quality assurance records. The department may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) The department must establish a statewide electronic emergency medical services data system and adopt rules requiring licensed ambulance and aid services to report and furnish patient encounter data to the electronic emergency medical services data system. The data system must be used to improve the availability and delivery of prehospital emergency medical services. The department must establish in rule the specific data elements of the data system and secure transport methods for data. The data collected must include data on suspected drug overdoses for the purposes of including, but not limited to, identifying individuals to engage substance use disorder peer professionals, patient navigators, outreach workers, and other professionals as appropriate to prevent further overdoses and to induct into treatment and provide other needed supports as may be available.

(3) In each emergency medical services and trauma care planning and service region, a regional emergency medical services and trauma care systems quality assurance program shall be established by those facilities authorized to provide levels I, II, and III trauma care services. The systems quality assurance program shall evaluate trauma care delivery, patient care outcomes, and compliance with the requirements of this chapter. The systems quality assurance program may also evaluate emergency cardiac and stroke care delivery. The emergency medical services medical program director and all other health care providers and facilities who provide trauma and emergency cardiac and stroke care services within the region shall be invited to participate in the regional emergency medical services and trauma care quality assurance program.

~~((3))~~ (4) Data elements related to the identification of individual patient's, provider's and facility's care outcomes shall be confidential, shall be exempt from RCW 42.56.030 through 42.56.570 and 42.17.350 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence.

~~((4))~~ (5) Patient care quality assurance proceedings, records, and reports developed pursuant to this section are confidential, exempt from chapter 42.56 RCW, and are not subject to discovery by subpoena or admissible as evidence~~((:))~~ in any civil action, except, after in camera review, pursuant to a court order which provides for the protection of sensitive information of interested parties including the department: (a) In actions arising out of the department's designation of a hospital or health care facility pursuant to RCW 70.168.070; (b) in actions arising out of the department's revocation or suspension of designation status of a hospital or health care facility under RCW 70.168.070; (c) in actions arising out of the department's licensing or verification of an ambulance or aid service pursuant to RCW 18.73.030 or 70.168.080; (d) in actions arising out of the certification of a medical program director pursuant to RCW 18.71.212; or ~~((+))~~ (e) in actions arising out of the restriction or revocation of the clinical or staff privileges of a health care provider as defined in RCW 7.70.020 (1) and (2), subject to any further restrictions on disclosure in RCW 4.24.250 that may apply. Information that identifies individual patients shall not be publicly disclosed without the patient's consent.

Sec. 20. RCW 70.225.010 and 2007 c 259 s 42 are each amended to read as follows:

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

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

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

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

(5) "Prescriber" means any person authorized to order or prescribe legend drugs or schedule II, III, IV, or V controlled substances to the ultimate user.

(6) "Requestor" means any person or entity requesting, accessing, or receiving information from the prescription monitoring program under RCW 70.225.040 (3), (4), or (5).

Sec. 21. RCW 70.225.020 and 2013 c 36 s 2 and 2013 C 19 S 126 are each reenacted and amended to read as follows:

(1) The department shall establish and maintain a prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the pharmacy quality assurance commission as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and overprescribing of controlled substances, and improving controlled substance prescribing practices with the intent of eventually establishing an electronic database available in real time to dispensers and prescribers of controlled substances. As much as possible, the department should establish a common database with other states. This program's management and operations shall be funded entirely from the funds in the account established under RCW 74.09.215. Nothing in this chapter prohibits voluntary contributions from private individuals and business entities as defined under Title 23, 23B, 24, or 25 RCW to assist in funding the prescription monitoring program.

(2) Except as provided in subsection (4) of this section, each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than one day use should be reported. The information submitted for each prescription shall include, but not be limited to:

- (a) Patient identifier;
- (b) Drug dispensed;
- (c) Date of dispensing;
- (d) Quantity dispensed;
- (e) Prescriber; and
- (f) Dispenser.

(3)(a) Until January 1, 2021, each dispenser shall submit the information in accordance with transmission methods established by the department, not later than one business day from the date of dispensing or at the interval required by the department in rule, whichever is sooner.

(b) Beginning January 1, 2021, each dispenser must submit the information as soon as readily available, but no later than one business day from the date of distributing, and in accordance with transmission methods established by the department.

(4) The data submission requirements of subsections (1) through (3) of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses;

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections

pharmacy, except that the department of corrections must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution; or

(c) Veterinarians licensed under chapter 18.92 RCW. The department, in collaboration with the veterinary board of governors, shall establish alternative data reporting requirements for veterinarians that allow veterinarians to report:

(i) By either electronic or nonelectronic methods;

(ii) Only those data elements that are relevant to veterinary practices and necessary to accomplish the public protection goals of this chapter; and

(iii) No more frequently than once every three months and no less frequently than once every six months.

(5) The department shall continue to seek federal grants to support the activities described in chapter 259, Laws of 2007. The department may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation and management of the system.

NEW SECTION. Sec. 22. A new section is added to chapter 70.225 RCW to read as follows:

(1) In order to expand integration of prescription monitoring program data into certified electronic health record technologies, the department must collaborate with health professional and facility associations, vendors, and others to:

(a) Conduct an assessment of the current status of integration;

(b) Provide recommendations for improving integration among small and rural health care facilities, offices, and clinics;

(c) Comply with federal prescription drug monitoring program qualification requirements under 42 U.S.C. Sec. 1396w-3a to facilitate eligibility for federal grants and establish a program to provide financial assistance to small and rural health care facilities and clinics with integration as funding is available, especially under federal programs;

(d) Conduct security assessments of other commonly used platforms for integrating prescription monitoring program data with certified electronic health records for possible use in Washington; and

(e) Assess improvements to the prescription monitoring program to establish a modality to identify patients that do not wish to receive opioid medications in a manner that allows an ordering or prescribing physician to be able to use the prescription monitoring program to identify patients who do not wish to receive opioids or patients that have had an opioid-related overdose.

(2)(a) By January 1, 2021, a facility, entity, office, or provider group identified in RCW 70.225.040 with ten or more prescribers that is not a critical access hospital as defined in RCW 74.60.010 that uses a federally certified electronic health records system must demonstrate that the facility's or entity's federally certified electronic health record is able to fully integrate data to and from the prescription monitoring program using a mechanism approved by the department under subsection (3) of this section.

(b) The department must develop a waiver process for the requirements of (a) of this subsection for facilities, entities, offices, or provider groups due to economic hardship, technological limitations that are not reasonably in the control of the facility, entity, office, or provider group, or other exceptional circumstance demonstrated by the facility, entity, office, or provider group. The

waiver must be limited to one year or less, or for any other specified time frame set by the department.

(3) Electronic health record system vendors who are fully integrated with the prescription monitoring program in Washington state may not charge an ongoing fee or a fee based on the number of transactions or providers. Total costs of connection must not impose unreasonable costs on any facility, entity, office, or provider group using the electronic health record and must be consistent with current industry pricing structures. For the purposes of this subsection, "fully integrated" means that the electronic health records system must:

(a) Send information to the prescription monitoring program without provider intervention using a mechanism approved by the department;

(b) Make current information from the prescription monitoring program available to a provider within the workflow of the electronic health records system; and

(c) Make information available in a way that is unlikely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information, in accordance with the information blocking provisions of the federal twenty-first century cures act, P.L. 114-255.

Sec. 23. RCW 70.225.040 and 2017 c 297 s 9 are each amended to read as follows:

(1) ~~((Prescription))~~ All information submitted to the ((department must be)) prescription monitoring program is confidential, ((in compliance with chapter 70.02 RCW and)) exempt from public inspection, copying, and disclosure under chapter 42.56 RCW, not subject to subpoena or discovery in any civil action, and protected under federal health care information privacy requirements ((and not subject to disclosure)), except as provided in subsections (3)((, (4), and (5))) through (6) of this section. Such confidentiality and exemption from disclosure continues whenever information from the prescription monitoring program is provided to a requestor under subsection (3), (4), (5), or (6) of this section except when used in proceedings specifically authorized in subsection (3), (4), or (5) of this section.

(2) The department must maintain procedures to ensure that the privacy and confidentiality of ~~((patients and patient))~~ all information collected, recorded, transmitted, and maintained including, but not limited to, the prescriber, requestor, dispenser, patient, and persons who received prescriptions from dispensers, is not disclosed to persons except as in subsections (3)((, (4), and (5))) through (6) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances or legend drugs, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) A health professional licensing, certification, or regulatory agency or entity in this or another jurisdiction. Consistent with current practice, the data provided may be used in legal proceedings concerning the license;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

~~(e) ((Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;~~

~~(f))~~ The director or the director's designee within the health care authority regarding medicaid ~~((clients for the purposes of quality improvement, patient safety, and care coordination. The information may not be used for contracting or value-based purchasing decisions))~~ recipients and members of the health care authority self-funded or self-insured health plans;

~~((g))~~ (f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

~~((h))~~ (g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

~~((i))~~ (h) Other entities under grand jury subpoena or court order;

~~((j))~~ (i) Personnel of the department for purposes of:

(i) Assessing prescribing and treatment practices~~((, including controlled substances related to mortality and morbidity))~~ and morbidity and mortality related to use of controlled substances and developing and implementing initiatives to protect the public health including, but not limited to, initiatives to address opioid use disorder;

(ii) Providing quality improvement feedback to~~((providers))~~ prescribers, including comparison of their respective data to aggregate data for~~((providers))~~ prescribers with the same type of license and same specialty; and

(iii) Administration and enforcement of this chapter or chapter 69.50 RCW;
~~((k))~~ (j) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;

~~((l))~~ (k) A health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity, or for quality improvement purposes if

~~((m))~~ (l) the facility or entity is licensed by the department or is licensed or certified under chapter 71.24, 71.34, or 71.05 RCW or is an entity deemed for purposes of chapter 71.24 RCW to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body, or is operated by the federal government or a federally recognized Indian tribe; ~~((and~~

~~((n))~~ (m) The facility or entity is a trading partner with the state's health information exchange;

~~((o))~~ (n) A health care provider group of five or more ~~((providers))~~ prescribers or dispensers for purposes of providing medical or pharmaceutical care to the patients of the provider group, or for quality improvement purposes if

~~((p))~~ (o) all the ~~((providers))~~ prescribers or dispensers in the provider group are licensed by the department or the provider group is operated by the federal government or a federally recognized Indian tribe; ~~((and~~

~~((q))~~ (p) The provider group is a trading partner with the state's health information exchange;

~~(m)~~ (m) The local health officer of a local health jurisdiction for the purposes of patient follow-up and care coordination following a controlled substance overdose event. For the purposes of this subsection "local health officer" has the same meaning as in RCW 70.05.010; and

~~(n)~~ (n) The coordinated care electronic tracking program developed in response to section 213, chapter 7, Laws of 2012 2nd sp. sess., commonly referred to as the seven best practices in emergency medicine, for the purposes of providing:

(i) Prescription monitoring program data to emergency department personnel when the patient registers in the emergency department; and

(ii) Notice to local health officers who have made opioid-related overdose a notifiable condition under RCW 70.05.070 as authorized by rules adopted under RCW 43.20.050, providers, appropriate care coordination staff, and prescribers listed in the patient's prescription monitoring program record that the patient has experienced a controlled substance overdose event. The department shall determine the content and format of the notice in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and the notice may be modified as necessary to reflect current needs and best practices.

(4) The department shall, on at least a quarterly basis, and pursuant to a schedule determined by the department, provide a facility or entity identified under subsection (3)~~((k))~~ (k) of this section or a provider group identified under subsection (3)~~((m))~~ (l) of this section with facility or entity and individual prescriber information if the facility, entity, or provider group:

(a) Uses the information only for internal quality improvement and individual prescriber quality improvement feedback purposes and does not use the information as the sole basis for any medical staff sanction or adverse employment action; and

(b) Provides to the department a standardized list of current prescribers of the facility, entity, or provider group. The specific facility, entity, or provider group information provided pursuant to this subsection and the requirements under this subsection must be determined by the department in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and may be modified as necessary to reflect current needs and best practices.

(5)(a) The department may publish or provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used directly or indirectly to identify individual patients, requestors, dispensers, prescribers, and persons who received prescriptions from dispensers. Direct and indirect patient identifiers may be provided for research that has been approved by the Washington state institutional review board and by the department through a data-sharing agreement.

(b)(i) The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state hospital association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement as specified in RCW 43.70.052(8) with the association. The department may provide dispenser and prescriber data and data that includes

indirect patient identifiers to the Washington state medical association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement with the association.

(ii) The department may provide data including direct and indirect patient identifiers to the department of social and health services office of research and data analysis, the department of labor and industries, and the health care authority for research that has been approved by the Washington state institutional review board and, with a data-sharing agreement approved by the department, for public health purposes to improve the prevention or treatment of substance use disorders.

(iii) The department may provide a prescriber feedback report to the largest health professional association representing each of the prescribing professions. The health professional associations must distribute the feedback report to prescribers engaged in the professions represented by the associations for quality improvement purposes, so long as the reports contain no direct patient identifiers that could be used to identify individual patients, dispensers, and persons who received prescriptions from dispensers, and the association enters into a written data-sharing agreement with the department. However, reports may include indirect patient identifiers as agreed to by the department and the association in a written data-sharing agreement.

(c) For the purposes of this subsection((~~7~~)):

(i) "Indirect patient identifiers" means data that may include: Hospital or provider identifiers, a five-digit zip code, county, state, and country of resident; dates that include month and year; age in years; and race and ethnicity; but does not include the patient's first name; middle name; last name; social security number; control or medical record number; zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination; and

(ii) "Prescribing professions" include:

(A) Allopathic physicians and physician assistants;

(B) Osteopathic physicians and physician assistants;

(C) Podiatric physicians;

(D) Dentists; and

(E) Advanced registered nurse practitioners.

(6) The department may enter into agreements to exchange prescription monitoring program data with established prescription monitoring programs in other jurisdictions. Under these agreements, the department may share prescription monitoring system data containing direct and indirect patient identifiers with other jurisdictions through a clearinghouse or prescription monitoring program data exchange that meets federal health care information privacy requirements. Data the department receives from other jurisdictions must be retained, used, protected, and destroyed as provided by the agreements to the extent consistent with the laws in this state.

(7) Persons authorized in subsections (3)((~~7~~), (~~4~~), and (~~5~~)) through (6) of this section to receive data in the prescription monitoring program from the department, acting in good faith, are immune from any civil, criminal, disciplinary, or administrative liability that might otherwise be incurred or imposed for acting under this chapter.

Sec. 24. RCW 71.24.011 and 1982 c 204 s 1 are each amended to read as follows:

This chapter may be known and cited as the community ~~((mental))~~ behavioral health services act.

NEW SECTION. Sec. 25. A new section is added to chapter 71.24 RCW to read as follows:

(1) Recognizing that treatment strategies and modalities for the treatment of individuals with opioid use disorder and their newborns continue to evolve, and that improved health outcomes are seen when birth parents and their infants are allowed to room together, the authority must provide recommendations to the office of financial management by October 1, 2019, to better support the care of individuals who have recently delivered and their newborns.

(2) These recommendations must support:

(a) Successful transition from the early postpartum and newborn period for the birth parent and infant to the next level of care;

(b) Reducing the risk of parental infant separation; and

(c) Increasing the chance of uninterrupted recovery of the parent and foster the development of positive parenting practices.

(3) The authority's recommendations must include:

(a) How these interventions could be supported in hospitals, birthing centers, or other appropriate sites of care and descriptions as to current barriers in providing these interventions;

(b) Estimates of the costs needed to support this enhanced set of services; and

(c) Mechanisms for funding the services.

Sec. 26. RCW 71.24.560 and 2017 c 297 s 11 are each amended to read as follows:

(1) All approved opioid treatment programs that provide services to ~~((women))~~ individuals who are pregnant are required to disseminate up-to-date and accurate health education information to all their pregnant ~~((clients))~~ individuals concerning the ~~((possible addiction and health risks that their treatment may have on their baby))~~ effects opioid use and opioid use disorder medication may have on their baby, including the development of dependence and subsequent withdrawal. All pregnant ~~((clients))~~ individuals must also be advised of the risks to both themselves and their ~~((baby))~~ babies associated with ~~((not remaining on the))~~ discontinuing an opioid treatment program. The information must be provided to these ~~((clients))~~ individuals both verbally and in writing. The health education information provided to the pregnant ~~((clients))~~ individuals must include referral options for ~~((the substance-exposed baby))~~ a baby who has been exposed to opioids in utero.

(2) The department shall adopt rules that require all opioid treatment programs to educate all pregnant ~~((women))~~ individuals in their program on the benefits and risks of medication-assisted treatment to ~~((their))~~ a developing fetus before they are ~~((provided))~~ prescribed these medications, as part of their treatment. The department shall also adopt rules requiring all opioid treatment programs to educate individuals who become pregnant about the risks to both the expecting parent and the fetus of not treating opioid use disorder. The department shall meet the requirements under this subsection within the

appropriations provided for opioid treatment programs. The department, working with treatment providers and medical experts, shall develop and disseminate the educational materials to all certified opioid treatment programs.

(3) For pregnant individuals who participate in medicaid, the authority, through its managed care organizations, must ensure that pregnant individuals receive outreach related to opioid use disorder when identified as a person at risk.

Sec. 27. RCW 71.24.580 and 2018 c 205 s 2 and 2018 c 201 s 4044 are each reenacted and amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance use disorder treatment and treatment support services for offenders with a substance use disorder that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of substance use disorder treatment services and treatment support services for nonviolent offenders within a drug court program; and (c) the administrative and overhead costs associated with the operation of a drug court. Amounts provided in this subsection must be used for treatment and recovery support services for criminally involved offenders and authorization of these services shall not be subject to determinations of medical necessity. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the state general fund. It is the intent of the legislature to continue in the 2019-2021 biennium the policy of transferring to the state general fund such amounts as reflect the excess fund balance of the account. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance use disorder treatment program, including but not limited to the recovery support and other programmatic elements outlined in RCW 2.30.030 authorizing therapeutic courts; and

(b) "Treatment support" includes transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the department for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the authority from the criminal justice treatment account shall be distributed as specified in this subsection. The authority may retain up to three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the authority from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The authority, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance use disorder treatment providers, and any other person deemed by the authority to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the authority from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The authority shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, and substance use disorder treatment providers. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The submitted plan should incorporate current evidence-based practices in substance use disorder treatment. The funds shall be used solely to provide approved alcohol and substance ~~((abuse))~~ use disorder treatment pursuant to RCW 71.24.560 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) If a region or county uses criminal justice treatment account funds to support a therapeutic court, the therapeutic court must allow the use of all medications approved by the federal food and drug administration for the treatment of opioid use disorder as deemed medically appropriate for a participant by a medical professional. If appropriate medication-assisted treatment resources are not available or accessible within the jurisdiction, the health care authority's designee for assistance must assist the court with acquiring the resource.

(10) Counties must meet the criteria established in RCW 2.30.030(3).

Sec. 28. RCW 71.24.585 and 2017 c 297 s 12 are each amended to read as follows:

~~((The state of Washington declares that there is no fundamental right to medication-assisted treatment for opioid use disorder.)) (1)(a) The state of Washington ((further)) declares that ((while medications used in the treatment of opioid use disorder are addictive substances, that they nevertheless have several legal, important, and justified uses and that one of their appropriate and legal uses is, in conjunction with other required therapeutic procedures, in the treatment of persons with opioid use disorder. The state of Washington recognizes as evidence-based for the management of opioid use disorder the medications approved by the federal food and drug administration for the treatment of opioid use disorder. Medication-assisted treatment should only be used for participants who are deemed appropriate to need this level of intervention. Providers must inform patients of all treatment options available. The provider and the patient shall consider alternative treatment options, like abstinence, when developing the treatment plan. If medications are prescribed, follow up must be included in the treatment plan in order to work towards the goal of abstinence.)) substance use disorders are medical conditions. Substance use disorders should be treated in a manner similar to other medical conditions by using interventions that are supported by evidence, including medications approved by the federal food and drug administration for the treatment of opioid use disorder. It is also recognized that many individuals have multiple substance use disorders, as well as histories of trauma, developmental disabilities, or mental health conditions. As such, all individuals experiencing opioid use disorder should be offered evidence-supported treatments to include federal food and drug administration approved medications for the treatment of opioid use disorders and behavioral counseling and social supports to address them. For behavioral health agencies, an effective plan of treatment for most persons with opioid use disorder integrates access to medications and psychosocial counseling and should be consistent with the American society of addiction medicine patient placement criteria. Providers must inform patients with opioid use disorder or substance use disorder of options to access federal food and drug administration approved medications for the treatment of opioid use disorder or substance use disorder. Because some such medications are controlled substances in chapter 69.50 RCW, the state of Washington maintains the legal obligation and right to regulate the ((clinical)) uses of these medications in the treatment of opioid use disorder.~~

~~((Further,)) (b) The authority must work with other state agencies and stakeholders to develop value-based payment strategies to better support the ongoing care of persons with opioid and other substance use disorders.~~

(c) The department of corrections shall develop policies to prioritize services based on available grant funding and funds appropriated specifically for opioid use disorder treatment.

(2) The authority must promote the use of medication therapies and other evidence-based strategies to address the opioid epidemic in Washington state. Additionally, by January 1, 2020, the authority must prioritize state resources for the provision of treatment and recovery support services to inpatient and outpatient treatment settings that allow patients to start or maintain their use of medications for opioid use disorder while engaging in services.

(3) The state declares that the main goals of ((~~opiate substitution treatment is total abstinence from substance use for the individuals who participate in the treatment program, but recognizes the additional goals of reduced morbidity, and restoration of the ability to lead a productive and fulfilling life. The state recognizes that a small percentage of persons who participate in opioid treatment programs require treatment for an extended period of time. Opioid treatment programs shall provide a comprehensive transition program to eliminate substance use, including opioid use of program participants~~) treatment for persons with opioid use disorder are the cessation of unprescribed opioid use, reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

(4) To achieve the goals in subsection (3) of this section, to promote public health and safety, and to promote the efficient and economic use of funding for the medicaid program under Title XIX of the social security act, the authority may seek, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis.

(5) The authority must partner with the department of social and health services, the department of corrections, the department of health, the department of children, youth, and families, and any other agencies or entities the authority deems appropriate to develop a statewide approach to leveraging medicaid funding to treat opioid use disorder and provide emergency overdose treatment. Such alternative sources of funding may include:

(a) Seeking a section 1115 demonstration waiver from the federal centers for medicare and medicaid services to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities; and

(b) Soliciting and receiving private funds, grants, and donations from any willing person or entity.

(6)(a) The authority shall work with the department of health to promote coordination between medication-assisted treatment prescribers, federally accredited opioid treatment programs, substance use disorder treatment facilities, and state-certified substance use disorder treatment agencies to:

(i) Increase patient choice in receiving medication and counseling;

(ii) Strengthen relationships between opioid use disorder providers;

(iii) Acknowledge and address the challenges presented for individuals needing treatment for multiple substance use disorders simultaneously; and

(iv) Study and review effective methods to identify and reach out to individuals with opioid use disorder who are at high risk of overdose and not involved in traditional systems of care, such as homeless individuals using syringe service programs, and connect such individuals to appropriate treatment.

(b) The authority must work with stakeholders to develop a set of recommendations to the governor and the legislature that:

(i) Propose, in addition to those required by federal law, a standard set of services needed to support the complex treatment needs of persons with opioid use disorder treated in opioid treatment programs;

(ii) Outline the components of and strategies needed to develop opioid treatment program centers of excellence that provide fully integrated care for persons with opioid use disorder;

(iii) Estimate the costs needed to support these models and recommendations for funding strategies that must be included in the report;

(iv) Outline strategies to increase the number of waived health care providers approved for prescribing buprenorphine by the substance abuse and mental health services administration; and

(v) Outline strategies to lower the cost of federal food and drug administration approved products for the treatment of opioid use disorder.

(7) State agencies shall review and promote positive outcomes associated with the accountable communities of health funded opioid projects and local law enforcement and human services opioid collaborations as set forth in the Washington state interagency opioid working plan.

(8) The authority must partner with the department and other state agencies to replicate effective approaches for linking individuals who have had a nonfatal overdose with treatment opportunities, with a goal to connect certified peer counselors with individuals who have had a nonfatal overdose.

(9) State agencies must work together to increase outreach and education about opioid overdoses to non-English-speaking communities by developing a plan to conduct outreach and education to non-English-speaking communities. The department must submit a report on the outreach and education plan with recommendations for implementation to the appropriate legislative committees by July 1, 2020.

NEW SECTION. Sec. 29. A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to funds appropriated by the legislature, the authority shall implement a pilot project for law enforcement assisted diversion which shall adhere to law enforcement assisted diversion core principles recognized by the law enforcement assisted diversion national support bureau, the efficacy of which have been demonstrated in peer-reviewed research studies.

(2) Under the pilot project, the authority must partner with the law enforcement assisted diversion national support bureau to award a contract, subject to appropriation, for two or more geographic areas in the state of Washington for law enforcement assisted diversion. Cities, counties, and tribes may compete for participation in a pilot project.

(3) The pilot projects must provide for comprehensive technical assistance from law enforcement assisted diversion implementation experts to develop and implement a law enforcement assisted diversion program in the pilot project's geographic areas in a way that ensures fidelity to the research-based law enforcement assisted diversion model.

(4) The key elements of a law enforcement assisted diversion pilot project must include:

(a) Long-term case management for individuals with substance use disorders;

(b) Facilitation and coordination with community resources focusing on overdose prevention;

(c) Facilitation and coordination with community resources focused on the prevention of infectious disease transmission;

(d) Facilitation and coordination with community resources providing physical and behavioral health services;

(e) Facilitation and coordination with community resources providing medications for the treatment of substance use disorders;

(f) Facilitation and coordination with community resources focusing on housing, employment, and public assistance;

(g) Twenty-four hours per day and seven days per week response to law enforcement for arrest diversions; and

(h) Prosecutorial support for diversion services.

Sec. 30. RCW 71.24.590 and 2018 c 201 s 4045 are each amended to read as follows:

(1) When making a decision on an application for licensing or certification of a program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) License or certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional use permits with reasonable conditions for the siting of programs. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its licensing or certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and license or certify only applicants whose programs meet the necessary treatment needs of that population;

(e) Consider the availability of other certified opioid treatment programs near the area in which the applicant proposes to locate the program;

(f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

(g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature in RCW 71.24.585. The department shall prioritize licensing or certification to applicants who have demonstrated such capability and are able to measure their success in meeting such outcomes;

(h) Hold one public hearing in the community in which the facility is proposed to be located. The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

(2) A county may impose a maximum capacity for a program of not less than three hundred fifty participants if necessary to address specific local conditions cited by the county.

(3) A program applying for licensing or certification from the department and a program applying for a contract from a state agency that has been denied the licensing or certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

(4) Opioid treatment programs may order, possess, dispense, and administer medications approved by the United States food and drug administration for the treatment of opioid use disorder, alcohol use disorder, tobacco use disorder, and reversal of opioid overdose. For an opioid treatment program to order, possess, and dispense any other legend drug, including controlled substances, the opioid treatment program must obtain additional licensure as required by the department, except for patient-owned medications.

(5) Opioid treatment programs may accept, possess, and administer patient-owned medications.

(6) Registered nurses and licensed practical nurses may dispense up to a thirty-one day supply of medications approved by the United States food and drug administration for the treatment of opioid use disorder to patients of the opioid treatment program, under an order or prescription and in compliance with 42 C.F.R. Sec. 8.12.

(7) For the purpose of this chapter, "opioid treatment program" means a program that:

(a) ~~((Dispensing a))~~ Engages in the treatment of opioid use disorder with medications approved by the ~~((federal))~~ United States food and drug administration for the treatment of opioid use disorder and ~~((dispensing medication for the))~~ reversal of opioid overdose; and

(b) ~~((Providing))~~ Provides a comprehensive range of medical and rehabilitative services.

Sec. 31. RCW 71.24.595 and 2018 c 201 s 4046 are each amended to read as follows:

(1) To achieve more medication options, the authority must work with the department and the authority's medicaid managed care organizations, to eliminate barriers and promote access to effective medications known to address opioid use disorders at state-certified opioid treatment programs. Medications include, but are not limited to: Methadone, buprenorphine, and naltrexone. The authority must encourage the distribution of naloxone to patients who are at risk of an opioid overdose.

(2) The department, in consultation with opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for licensed or certified opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

~~((2))~~ (3) The department, in consultation with opioid treatment programs and counties, shall establish statewide operating standards for certified opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions

necessary to enable the department and counties to monitor certified or licensed opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the opioid treatment programs upon the business and residential neighborhoods in which the program is located.

~~((3))~~ (4) The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter. Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

NEW SECTION. Sec. 32. A new section is added to chapter 71.24 RCW to read as follows:

By October 1, 2019, the authority must work with the department, the accountable communities of health, and community stakeholders to develop a plan for the coordinated purchasing and distribution of opioid overdose reversal medication across the state of Washington. The plan must be developed in consultation with the University of Washington's alcohol and drug abuse institute and community agencies participating in the federal demonstration grant titled Washington state project to prevent prescription drug or opioid overdose.

NEW SECTION. Sec. 33. A new section is added to chapter 71.24 RCW to read as follows:

(1) The department, in coordination with the authority, must develop a strategy to rapidly deploy a response team to a local community identified as having a high number of fentanyl-related or other drug overdoses by the local emergency management system, hospital emergency department, local health jurisdiction, law enforcement agency, or surveillance data. The response team must provide technical assistance and other support to the local health jurisdiction, health care clinics, hospital emergency departments, substance use disorder treatment providers, and other community-based organizations, and are expected to increase the local capacity to provide medication-assisted treatment and overdose education.

(2) The department and the authority must reduce barriers and promote medication treatment therapies for opioid use disorder in emergency departments and same-day referrals to opioid treatment programs, substance use disorder treatment facilities, and community-based medication treatment prescribers for individuals experiencing an overdose.

NEW SECTION. Sec. 34. A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to funds appropriated by the legislature, or approval of a section 1115 demonstration waiver from the federal centers for medicare and medicaid services, to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities, the authority shall establish a methodology for distributing funds to city and county jails to provide medication for the treatment of opioid use disorder to individuals in the custody of the facility in any status. The authority must prioritize funding for the services required in (a) of this subsection. To the extent that funding is provided, city and county jails must:

(a) Provide medication for the treatment of opioid use disorder to individuals in the custody of the facility, in any status, who were receiving medication for the treatment of opioid use disorder through a legally authorized medical program or by a valid prescription immediately before incarceration; and

(b) Provide medication for the treatment of opioid use disorder to incarcerated individuals not less than thirty days before release when treatment is determined to be medically appropriate by a health care practitioner.

(2) City and county jails must make reasonable efforts to directly connect incarcerated individuals receiving medication for the treatment of opioid use disorder to an appropriate provider or treatment site in the geographic region in which the individual will reside before release. If a connection is not possible, the facility must document its efforts in the individual's record.

NEW SECTION. Sec. 35. A new section is added to chapter 74.09 RCW to read as follows:

(1) In order to support prevention of potential opioid use disorders, the authority must develop and recommend for coverage nonpharmacologic treatments for acute, subacute, and chronic noncancer pain and must report to the governor and the appropriate committees of the legislature, including any requests for funding necessary to implement the recommendations under this section. The recommendations must contain the following elements:

- (a) A list of which nonpharmacologic treatments will be covered;
 - (b) Recommendations as to the duration, amount, and type of treatment eligible for coverage;
 - (c) Guidance on the type of providers eligible to provide these treatments;
- and

(d) Recommendations regarding the need to add any provider types to the list of currently eligible medicaid provider types.

(2) The authority must ensure only treatments that are evidence-based for the treatment of the specific acute, subacute, and chronic pain conditions will be eligible for coverage recommendations.

NEW SECTION. Sec. 36. A new section is added to chapter 41.05 RCW to read as follows:

A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2020, shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

NEW SECTION. Sec. 37. A new section is added to chapter 48.43 RCW to read as follows:

For health plans issued or renewed on or after January 1, 2020, a health carrier shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

NEW SECTION. Sec. 38. A new section is added to chapter 74.09 RCW to read as follows:

Upon initiation or renewal of a contract with the authority to administer a Medicaid managed care plan, a managed health care system shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

NEW SECTION. Sec. 39. A new section is added to chapter 28A.210 RCW to read as follows:

(1) For the purposes of this section:

(a) "High school" means a school enrolling students in any of grades nine through twelve;

(b) "Opioid overdose reversal medication" has the meaning provided in RCW 69.41.095;

(c) "Opioid-related overdose" has the meaning provided in RCW 69.41.095; and

(d) "Standing order" has the meaning provided in RCW 69.41.095.

(2)(a) For the purpose of assisting a person at risk of experiencing an opioid-related overdose, a high school may obtain and maintain opioid overdose reversal medication through a standing order prescribed and dispensed in accordance with RCW 69.41.095.

(b) Opioid overdose reversal medication may be obtained from donation sources, but must be maintained and administered in a manner consistent with a standing order issued in accordance with RCW 69.41.095.

(c) A school district with two thousand or more students must obtain and maintain at least one set of opioid overdose reversal medication doses in each of its high schools as provided in (a) and (b) of this subsection. A school district that demonstrates a good faith effort to obtain the opioid overdose reversal medication through a donation source, but is unable to do so, is exempt from the requirement in this subsection (2)(c).

(3)(a) The following personnel may distribute or administer the school-owned opioid overdose reversal medication to respond to symptoms of an opioid-related overdose pursuant to a prescription or a standing order issued in accordance with RCW 69.41.095: (i) A school nurse; (ii) a health care professional or trained staff person located at a health care clinic on public school property or under contract with the school district; or (iii) designated trained school personnel.

(b) Opioid overdose reversal medication may be used on school property, including the school building, playground, and school bus, as well as during field trips or sanctioned excursions away from school property. A school nurse or designated trained school personnel may carry an appropriate supply of school-owned opioid overdose reversal medication on field trips or sanctioned excursions.

(4) Training for school personnel who have been designated to distribute or administer opioid overdose reversal medication under this section must meet the requirements for training described in section 40 of this act and any rules or guidelines for such training adopted by the office of the superintendent of public instruction. Each high school is encouraged to designate and train at least one school personnel to distribute and administer opioid overdose reversal medication if the high school does not have a full-time school nurse or trained health care clinic staff.

(5)(a) The liability of a person or entity who complies with this section and RCW 69.41.095 is limited as described in RCW 69.41.095.

(b) If a student is injured or harmed due to the administration of opioid overdose reversal medication that a practitioner, as defined in RCW 69.41.095, has prescribed and a pharmacist has dispensed to a school under this section, the practitioner and pharmacist may not be held responsible for the injury unless he or she acted with conscious disregard for safety.

NEW SECTION. Sec. 40. A new section is added to chapter 28A.210 RCW to read as follows:

(1) For the purposes of this section:

(a) "Opioid overdose reversal medication" has the meaning provided in RCW 69.41.095; and

(b) "Opioid-related overdose" has the meaning provided in RCW 69.41.095.

(2)(a) To prevent opioid-related overdoses and respond to medical emergencies resulting from overdoses, by January 1, 2020, the office of the superintendent of public instruction, in consultation with the department of health and the Washington state school directors' association, shall develop opioid-related overdose policy guidelines and training requirements for public schools and school districts.

(b)(i) The opioid-related overdose policy guidelines and training requirements must include information about: The identification of opioid-related overdose symptoms; how to obtain and maintain opioid overdose reversal medication on school property issued through a standing order in accordance with section 39 of this act; how to obtain opioid overdose reversal medication through donation sources; the distribution and administration of opioid overdose reversal medication by designated trained school personnel; free online training resources that meet the training requirements in this section; and sample standing orders for opioid overdose reversal medication.

(ii) The opioid-related overdose policy guidelines may: Include recommendations for the storage and labeling of opioid overdose reversal medications that are based on input from relevant health agencies or experts; and allow for opioid-related overdose reversal medications to be obtained, maintained, distributed, and administered by health care professionals and trained staff located at a health care clinic on public school property or under contract with the school district.

(c) In addition to being offered by the school, training on the distribution or administration of opioid overdose reversal medication that meets the requirements of this subsection (2) may be offered by nonprofit organizations, higher education institutions, and local public health organizations.

(3)(a) By March 1, 2020, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction and the department of health to either update existing model policy or develop a new model policy that meets the requirements of subsection (2) of this section.

(b) Beginning with the 2020-21 school year, the following school districts must adopt an opioid-related overdose policy: (a) School districts with a school that obtains, maintains, distributes, or administers opioid overdose reversal medication under section 39 of this act; and (b) school districts with two thousand or more 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 web site at no cost to school districts.

(4) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall develop and administer a grant program to provide funding to public schools with any of grades nine through twelve and public higher education institutions to purchase opioid overdose reversal medication and train personnel on the administration of opioid overdose reversal medication to respond to symptoms of an opioid-related overdose. The office must publish on its web site a list of annual grant recipients, including award amounts.

Sec. 41. RCW 28A.210.260 and 2017 c 186 s 2 are each amended to read as follows:

(1) Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication, topical medication, eye drops, ear drops, or nasal spray, of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

~~((+))~~ (a) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications, topical medications, eye drops, ear drops, or nasal spray to students, the acquisition of parent requests and instructions, and the acquisition of requests from licensed health professionals prescribing within the scope of their prescriptive authority and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41 RCW, and the means of maintaining a record of the administration of such medication;

~~((2))~~ (b) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

~~((3))~~ (c) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

~~((4))~~ (d) The public school district or the private school is in receipt of ~~((a))~~: (i) A written, current and unexpired request from a licensed health professional prescribing within the scope of his or her prescriptive authority for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials~~(;)~~; and ~~((b))~~ (ii) written, current and unexpired instructions from such licensed health professional prescribing within the scope of his or her prescriptive authority regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive workdays;

~~((5))~~ (e) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to (a) of this subsection ~~((1) of this~~

~~section~~) and in substantial compliance with the prescription of a licensed health professional prescribing within the scope of his or her prescriptive authority or the written instructions provided pursuant to (d) of this subsection (~~((4) of this section~~)). If a school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance must be administered by the school nurse. If no school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance may be administered by a trained school employee or parent-designated adult who is not a school nurse. The board of directors shall allow school personnel, who have received appropriate training and volunteered for such training, to administer a nasal spray that is a legend drug or a controlled substance. After a school employee who is not a school nurse administers a nasal spray that is a legend drug or a controlled substance, the employee shall summon emergency medical assistance as soon as practicable;

~~((6))~~ (f) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and

~~((7))~~ (g) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 RCW or chapter 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to delegate to, train, and supervise the designated school district personnel in proper medication procedures;

~~((8)(a))~~ For the purposes of this section, "~~parent-designated adult~~" means a ~~volunteer, who may be a school district employee, who receives additional training from a health care professional or expert in epileptic seizure care selected by the parents, and who provides care for the child consistent with the individual health plan.~~

~~(b))~~ (h) To be eligible to be a parent-designated adult, a school district employee not licensed under chapter 18.79 RCW must file, without coercion by the employer, a voluntary written, current, and unexpired letter of intent stating the employee's willingness to be a parent-designated adult. If a school employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee shall not be subject to any employer reprisal or disciplinary action for refusing to file a letter. A parent-designated adult must be a volunteer, who may be a school district employee, who receives additional training from a health care professional or expert in epileptic seizure care selected by the parents, and who provides care for the child consistent with the individual health plan; and

~~((9))~~ (i) The board of directors shall designate a professional person licensed under chapter 18.71, 18.57, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to consult and coordinate with the student's parents and health care provider, and train and supervise the appropriate school district personnel in proper procedures for care for students with epilepsy to ensure a safe, therapeutic learning environment. Training may also be provided by an epilepsy educator who is nationally certified. Parent-designated adults who are school employees are required to receive the training provided under this subsection. Parent-designated adults who are not school employees must show evidence of comparable training. The parent-designated adult must also receive additional training as established in (h) of this subsection (~~((8)(a) of this section~~)) for the additional care the parents have authorized the

parent-designated adult to provide. The professional person designated under this subsection is not responsible for the supervision of the parent-designated adult for those procedures that are authorized by the parents((?)).

~~((+0))~~ (2) This section does not apply to:

(a) Topical sunscreen products regulated by the United States food and drug administration for over-the-counter use. Provisions related to possession and application of topical sunscreen products are in RCW 28A.210.278; and

(b) Opioid overdose reversal medication. Provisions related to maintenance and administration of opioid overdose reversal medication are in section 39 of this act.

Sec. 42. RCW 28A.210.270 and 2013 c 180 s 2 are each amended to read as follows:

(1) In the event a school employee administers oral medication, topical medication, eye drops, ear drops, or nasal spray to a student pursuant to RCW 28A.210.260 in substantial compliance with the prescription of the student's licensed health professional prescribing within the scope of the professional's prescriptive authority or the written instructions provided pursuant to RCW 28A.210.260(~~((4))~~) (1)(d), and the other conditions set forth in RCW 28A.210.260 have been substantially complied with, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual or marital or governmental or corporate or other capacities as a result of the administration of the medication.

(2) The administration of oral medication, topical medication, eye drops, ear drops, or nasal spray to any student pursuant to RCW 28A.210.260 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their governmental or corporate or individual or marital or other capacities as a result of the discontinuance of such administration: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student.

NEW SECTION. Sec. 43. A new section is added to chapter 28B.10 RCW to read as follows:

(1) For the purposes of this section:

(a) "Opioid overdose reversal medication" has the meaning provided in RCW 69.41.095; and

(b) "Opioid-related overdose" has the meaning provided in RCW 69.41.095.

(2) By the beginning of the 2019-20 academic year, a public institution of higher education with a residence hall housing at least one hundred students must develop a plan: (a) For the maintenance and administration of opioid overdose reversal medication in and around the residence hall; and (b) for the training of designated personnel to administer opioid overdose reversal medication to respond to symptoms of an opioid-related overdose. The training may utilize free online training resources including, but not limited to, the free

online training resources identified as appropriate for public schools in section 40 of this act. The plan may identify: The ratio of residents to opioid overdose reversal medication doses; the designated trained personnel, who may include residence hall advisers; and whether the designated trained personnel covers more than one residence hall.

(3) The state board for community and technical colleges shall assist an individual community or technical college with applying for grants or donations to obtain opioid overdose reversal medication at no cost or at a discount.

NEW SECTION. Sec. 44. (1) Section 15 of this act expires January 1, 2021.

(2) Section 16 of this act takes effect January 1, 2021.

NEW SECTION. Sec. 45. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 26, 2019.

Passed by the House April 26, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 315

[Substitute Senate Bill 5405]

ORGAN TRANSPLANTS--DISCRIMINATION ON BASIS OF DISABILITY

AN ACT Relating to nondiscrimination in access to organ transplants; adding a new chapter to Title 68 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. FINDINGS. (1) The legislature finds that a mental or physical disability does not diminish a person's right to health care including organ transplantation.

(2) The legislature finds that the Americans with disabilities act of 1990 prohibits discrimination against persons with disabilities, yet many individuals with disabilities still experience discrimination in accessing critical health care services.

(3) The legislature finds that although organ transplant centers must consider medical and psychosocial criteria when determining if a patient is suitable to receive an organ transplant, transplant centers that participate in medicare, medicaid, and other federal funding programs are required to use patient selection criteria that result in a fair and nondiscriminatory distribution of organs.

(4) The legislature finds that Washington residents in need of organ transplants are entitled to assurances that they will not encounter discrimination on the basis of a disability.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Anatomical gift" has the same meaning as provided in RCW 68.64.010.

(2) "Auxiliary aids and services" include, but are not limited to:

(a) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(b) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(c) Provision of information in a format that is accessible for individuals with cognitive, neurological, developmental, and/or intellectual disabilities;

(d) Provision of supported decision-making services; and

(e) Acquisition or modification of equipment or devices.

(3) "Covered entity" means:

(a) Any licensed provider of health care services, including licensed health care practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities, and prison health centers; or

(b) Any entity responsible for matching anatomical gift donors to potential recipients.

(4) "Disability" has the same meaning as provided in the Americans with disabilities act of 1990, as amended by the Americans with disabilities act amendments act of 2008, 42 U.S.C. Sec. 12102.

(5) "Qualified individual" means an individual who, with or without the support networks available to them, provision of auxiliary aids and services, and/or reasonable modifications to policies or practices, meets the essential eligibility requirements for the receipt of an anatomical gift.

(6) "Reasonable modifications to policies or practices" include, but are not limited to:

(a) Communication with individuals responsible for supporting an individual with postsurgical and posttransplantation care, including medication; and

(b) Consideration of support networks available to the individual, including family, friends, and home and community-based services, including home and community-based services funded through medicaid, medicare, another health plan in which the individual is enrolled, or any program or source of funding available to the individual, in determining whether the individual is able to comply with posttransplant medical requirements.

(7) "Supported decision making" means the use of a support person to assist an individual in making medical decisions, communicate information to the individual, or ascertain an individual's wishes. "Supported decision making" may include:

(a) The inclusion of the individual's attorney-in-fact, health care proxy, or any person of the individual's choice in communications about the individual's medical care;

(b) Permitting the individual to designate a person of their choice for the purposes of supporting that individual in communicating, processing information, or making medical decisions;

(c) Providing auxiliary aids and services to facilitate the individual's ability to communicate and process health-related information, including use of assistive communication technology;

(d) Providing information to persons designated by the individual, consistent with the provisions of the health insurance portability and

accountability act of 1996, 42 U.S.C. Sec. 1301 et seq., and other applicable laws and regulations governing disclosure of health information;

(e) Providing health information in a format that is readily understandable by the individual; and

(f) Working with a court-appointed guardian or other individual responsible for making medical decisions on behalf of the individual, to ensure that the individual is included in decisions involving his or her own health care and that medical decisions are in accordance with the individual's own expressed interests.

NEW SECTION. Sec. 3. PROHIBITION OF DISCRIMINATION. (1) A covered entity may not, solely on the basis of a qualified individual's mental or physical disability:

(a) Deem an individual ineligible to receive an anatomical gift or organ transplant;

(b) Deny medical or related organ transplantation services, including evaluation, surgery, counseling, and postoperative treatment and care;

(c) Refuse to refer the individual to a transplant center or other related specialist for the purpose of evaluation or receipt of an organ transplant;

(d) Refuse to place an individual on an organ transplant waiting list, or placement of the individual at a lower-priority position on the list than the position at which he or she would have been placed if not for his or her disability; or

(e) Decline insurance coverage for any procedure associated with the receipt of the anatomical gift, including posttransplantation care.

(2) Notwithstanding subsection (1) of this section, a covered entity may take an individual's disability into account when making treatment and/or coverage recommendations or decisions, solely to the extent that the physical or mental disability has been found by a physician, following an individualized evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift. The provisions of this section may not be deemed to require referrals or recommendations for, or the performance of, medically inappropriate organ transplants.

(3) If an individual has the necessary support system to provide reasonable assurance that she or he will comply with posttransplant medical requirements, an individual's inability to independently comply with those requirements may not be deemed to be medically significant for the purposes of subsection (2) of this section.

(4) A covered entity must make reasonable modifications to policies, practices, or procedures, when such modifications are necessary to make services such as transplantation-related counseling, information, coverage, or treatment available to qualified individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such services.

(5) A covered entity must take such steps as may be necessary to ensure that no qualified individual with a disability is denied services such as transplantation-related counseling, information, coverage, or treatment because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the services being offered or would result in an undue burden.

(6) A covered entity must otherwise comply with the requirements of Titles II and III of the Americans with disabilities act of 1990 and the Americans with disabilities act amendments act of 2008.

(7) The provisions of this section apply to each part of the organ transplant process.

NEW SECTION. Sec. 4. ENFORCEMENT. (1) Any individual who has been subjected to discrimination in violation of this chapter may initiate a civil action in a court of competent jurisdiction to enjoin further violations and recover the cost of the suit including reasonable attorneys' fees.

(2) The court must accord priority on its calendar and expeditiously proceed with an action brought under this chapter.

(3) Nothing in this section is intended to limit or replace available remedies under the Americans with disabilities act of 1990 and the Americans with disabilities act amendments act of 2008 or any other applicable law.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act constitute a new chapter in Title 68 RCW.

Passed by the Senate April 22, 2019.

Passed by the House April 9, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 316

[Engrossed Substitute Senate Bill 5410]

HIGHER EDUCATION CREDIT--ADVANCED PLACEMENT, INTERNATIONAL BACCALAUREATE, AND CAMBRIDGE INTERNATIONAL EXAMS

AN ACT Relating to a systemwide credit policy regarding advanced placement, international baccalaureate, and Cambridge international exams; amending RCW 28B.10.054; creating a new section; and repealing RCW 28B.10.051.

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

NEW SECTION. Sec. 1. The legislature finds that advanced placement, international baccalaureate, and Cambridge international coursework prepares students for postsecondary success and provides opportunities for them to earn college credit or secure placement in advanced courses.

The legislature feels strongly that students who have earned minimum scores of three on advanced placement exams, four on standard-level and higher-level international baccalaureate exams, or scores of E(e) or higher on A and AS level Cambridge international exams deserve to receive undergraduate college credit, including elective credit and, where appropriate, course equivalent credit, for their work.

The legislature finds it necessary to develop a systemwide credit policy that allows those students to easily understand in advance whether institutions of higher education will award them credit, as well as which type of credit students will receive and the rationale for the institution of higher education's determination.

The legislature further encourages institutions of higher education to establish a policy favoring the award of course equivalent credit for the successful completion of standardized and commonly required courses.

Sec. 2. RCW 28B.10.054 and 2017 c 179 s 2 are each amended to read as follows:

(1) The institutions of higher education must establish a coordinated, evidence-based policy for granting as many undergraduate college credits, as possible and appropriate, to students who have earned minimum scores of three on ~~((AP))~~ advanced placement exams ~~((as possible and appropriate))~~, four on standard-level and higher-level international baccalaureate exams, or scores of E(e) or higher on A and AS level Cambridge international exams.

(2) Each institution of higher education must create a process for retroactively awarding international baccalaureate exam undergraduate college credits under the terms of this section to students who first enrolled in the institution of higher education in the 2018-19 academic year.

(3) Credit ~~((policy))~~ policies regarding all ~~((AP))~~ advanced placement and international baccalaureate exams must be posted on campus web sites effective for the ~~((2017))~~ 2019 fall academic term. Credit policies regarding all Cambridge international exams must be posted on campus web sites effective for the 2020 fall academic term. If an institution of higher education is unable to award a general education course equivalency, the student may request in writing an evidence-based reason as to why general education course equivalency cannot be granted. Institutions of higher education must maintain web sites regarding their advanced placement, international baccalaureate, and Cambridge international policies in a publicly accessible way. The institutions of higher education must conduct biennial reviews of their ~~((AP))~~ advanced placement, international baccalaureate, and Cambridge international credit ~~((policy))~~ policies and report noncompliance to the appropriate committees of the legislature by November 1st each ~~((year))~~ biennium beginning November 1, 2019.

(4) The institutions of higher education must provide an update to the joint legislative audit and review committee on their credit awarding policies by December 31, 2019.

(5) For the purposes of this section, "general education course equivalency" means credit that fulfills general education or major requirements and is not awarded as elective credit.

NEW SECTION. **Sec. 3.** RCW 28B.10.051 (International baccalaureate and Cambridge international exams credit policies) and 2018 c 124 s 2 are each repealed.

Passed by the Senate April 23, 2019.

Passed by the House April 16, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 317

[Substitute Senate Bill 5425]

MATERNAL MORTALITY REVIEWS

AN ACT Relating to maternal mortality reviews; amending RCW 70.54.450, 70.02.230, and 68.50.104; creating a new section; and repealing 2016 c 238 s 4 (uncodified).

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

Sec. 1. RCW 70.54.450 and 2016 c 238 s 1 are each amended to read as follows:

(1) For the purposes of this section, "maternal mortality" or "maternal death" means a death of a woman while pregnant or within one year of ~~((delivering or following))~~ the end of a pregnancy, ~~((whether or not the woman's death is related to or aggravated by the pregnancy))~~ from any cause.

(2) A maternal mortality review panel is established to conduct comprehensive, multidisciplinary reviews of maternal deaths in Washington to identify factors associated with the deaths and make recommendations for system changes to improve health care services for women in this state. The members of the panel must be appointed by the secretary of the department of health, must include at least one tribal representative, must serve without compensation, and may include at the discretion of the department:

~~(a) (An obstetrician;~~

~~(b) A physician specializing in maternal fetal medicine;~~

~~(c) A neonatologist;~~

~~(d) A midwife with licensure in the state of Washington;))~~ Women's medical, nursing, and service providers;

(b) Perinatal medical, nursing, and service providers;

(c) Obstetric medical, nursing, and service providers;

(d) Newborn or pediatric medical, nursing, and service providers;

(e) Birthing hospital or licensed birth center representative;

(f) Coroners, medical examiners, or pathologists;

(g) Behavioral health and service providers;

(h) State agency representatives;

(i) Individuals or organizations that represent the populations most affected by pregnancy-related deaths or pregnancy-associated deaths and lack of access to maternal health care services;

(j) A representative from the department of health who works in the field of maternal and child health; and

~~((f))~~ (k) A department of health epidemiologist with experience analyzing perinatal data;

(g) A pathologist; and

(h) A representative of the community mental health centers).

(3) The maternal mortality review panel must conduct comprehensive, multidisciplinary reviews of maternal mortality in Washington. The panel may not call witnesses or take testimony from any individual involved in the investigation of a maternal death or enforce any public health standard or criminal law or otherwise participate in any legal proceeding relating to a maternal death.

(4)(a) Information, documents, proceedings, records, and opinions created, collected, or maintained by the maternity mortality review panel or the department of health in support of the maternal mortality review panel are confidential and are not subject to public inspection or copying under chapter 42.56 RCW and are not subject to discovery or introduction into evidence in any civil or criminal action.

(b) Any person who was in attendance at a meeting of the maternal mortality review panel or who participated in the creation, collection, or maintenance of the panel's information, documents, proceedings, records, or

opinions may not be permitted or required to testify in any civil or criminal action as to the content of such proceedings, or the panel's information, documents, records, or opinions. This subsection does not prevent a member of the panel from testifying in a civil or criminal action concerning facts which form the basis for the panel's proceedings of which the panel member had personal knowledge acquired independently of the panel or which is public information.

(c) Any person who, in substantial good faith, participates as a member of the maternal mortality review panel or provides information to further the purposes of the maternal mortality review panel may not be subject to an action for civil damages or other relief as a result of the activity or its consequences.

(d) All meetings, proceedings, and deliberations of the maternal mortality review panel may, at the discretion of the maternal mortality review panel, be confidential and may be conducted in executive session.

(e) The maternal mortality review panel and ~~((the secretary of))~~ the department of health may retain identifiable information regarding facilities where maternal deaths occur, or facilities from which ~~((the patient was transferred, occur))~~ a patient whose record is or will be examined by the maternal mortality review panel was transferred, and geographic information on each case ~~((solely))~~ determining trends, performing analysis over time, and for quality improvement efforts. All individually identifiable information must be removed before any case review by the panel.

(5) The department of health shall review department available data to identify maternal deaths. To aid in determining whether a maternal death was related to or aggravated by the pregnancy, ~~((and))~~ and to coordinate quality improvement efforts, the department of health has the authority to:

(a) Request and receive data for specific maternal deaths including, but not limited to, all medical records, autopsy reports, medical examiner reports, coroner reports, and social service records; and

(b) Request and receive data as described in (a) of this subsection from health care providers, health care facilities, clinics, laboratories, medical examiners, coroners, professions and facilities licensed by the department of health, local health jurisdictions, the health care authority and its licensees and providers, ~~((and))~~ and the department of social and health services and its licensees and providers, and the department of children, youth, and families and its licensees and providers.

(6) Upon request by the department of health, health care providers, health care facilities, clinics, laboratories, medical examiners, coroners, professions and facilities licensed by the department of health, local health jurisdictions, the health care authority and its licensees and providers, ~~((and))~~ and the department of social and health services and its licensees and providers, and the department of children, youth, and families and its licensees and providers must provide all medical records, autopsy reports, medical examiner reports, coroner reports, social services records, information and records related to sexually transmitted diseases, and other data requested for specific maternal deaths as provided for in subsection (5) of this section to the department.

(7) By ~~((July 1, 2017))~~ October 1, 2019, and ~~((biennially))~~ every three years thereafter, the maternal mortality review panel must submit a report to the secretary of the department of health and the health care committees of the senate and house of representatives. The report must protect the confidentiality of all decedents and other participants involved in any incident. The report must be distributed to relevant stakeholder groups for performance improvement. Interim results may be shared ~~((at))~~ with the Washington state hospital association coordinated quality improvement program. The report must include the following:

(a) A description of the maternal deaths reviewed by the panel ~~((during the preceding twenty-four months))~~, including statistics and causes of maternal deaths presented in the aggregate, but the report must not disclose any identifying information of patients, decedents, providers, and organizations involved; and

(b) Evidence-based system changes and possible legislation to improve maternal outcomes and reduce preventable maternal deaths in Washington.

(8) Upon the approval of the department of health and with a signed written data-sharing agreement, the department of health may release either data or findings with indirect identifiers, or both, to the centers for disease control and prevention, regional maternal mortality review efforts, local health jurisdictions of Washington state, or tribes at the discretion of the department.

(a) A written data-sharing agreement under this section must, at a minimum:

(i) Include a description of the proposed purpose of the request, the scientific justification for the proposal, the type of data needed, and the purpose for which the data will be used;

(ii) Include the methods to be used to protect the confidentiality and security of the data;

(iii) Prohibit redisclosure of any identifiers without express written permission from the department of health;

(iv) Prohibit the recipient of the data from attempting to determine the identity of persons or parties whose information is included in the data set or use the data in any manner that identifies individuals or their family members, or health care providers and facilities;

(v) State that ownership of data provided under this section remains with the department of health, and is not transferred to those authorized to receive and use the data under the agreement; and

(vi) Require the recipient of the data to include appropriate citations when the data is used in research reports or publications of research findings.

(b) The department of health may deny a request to share either data or findings, or both, that does not meet the requirements.

(c) For the purposes of this subsection:

(i) "Direct identifier" means a single data element that identifies an individual person.

(ii) "Indirect identifier" means a single data element that on its own might not identify an individual person, but when combined with other indirect identifiers is likely to identify an individual person.

(9) For the purposes of the maternal mortality review, hospitals and licensed birth centers must make a reasonable and good faith effort to report all deaths

that occur during pregnancy or within forty-two days of the end of pregnancy to the local coroner or medical examiner:

(a) These deaths must be reported within thirty-six hours after death.

(b) Local coroners or medical examiners to whom the death was reported must conduct a death investigation, with autopsy strongly recommended.

(c) Autopsies must follow the guidelines for performance of an autopsy published by the department of health.

(d) Reimbursement of these autopsies must be at one hundred percent to the counties for autopsy services.

Sec. 2. RCW 70.02.230 and 2018 c 201 s 8002 are each amended to read as follows:

(1) 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, and 70.02.260, or pursuant to a valid authorization under RCW 70.02.030, 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 must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, 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 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) 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;

(l) 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;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(~~(iii)~~) (iv). 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)(~~(iii)~~) (iv);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) 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;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the authority, to the director of behavioral health 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;

(q) Within the mental health service agency 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;

(r) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or substance use disorder of persons who are under the supervision of the department;

(s) 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, alcoholism, or drug abuse of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

(t) 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;

(u)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A 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 or 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)(u) 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;

(v) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (u) of this subsection;

(w) 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;

(x) 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;

(y) 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;

(z) To all current treating 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;

(aa)(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;

(bb) To any person if the conditions in RCW 70.02.205 are met;

(cc) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450.

(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 chemical dependency, 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.

NEW SECTION. **Sec. 3.** 2016 c 238 s 4 (uncodified) is repealed.

Sec. 4. RCW 68.50.104 and 2001 c 82 s 2 are each amended to read as follows:

(1) The cost of autopsy shall be borne by the county in which the autopsy is performed, except when requested by the department of labor and industries, in which case, the department shall bear the cost of such autopsy.

(2)(a) Except as provided in ~~((e))~~ (b) of this subsection, when the county bears the cost of an autopsy, it shall be reimbursed from the death investigations account, established by RCW 43.79.445, as follows:

~~((a))~~ (i) Up to forty percent of the cost of contracting for the services of a pathologist to perform an autopsy;

~~((b))~~ (ii) Up to twenty-five percent of the salary of pathologists who are primarily engaged in performing autopsies and are ~~((c))~~ (A) county coroners or county medical examiners, or ~~((d))~~ (B) employees of a county coroner or county medical examiner; and

~~((e))~~ (iii) One hundred percent of the cost of autopsies conducted under RCW 70.54.450.

(b) When the county bears the cost of an autopsy of a child under the age of three whose death was sudden and unexplained, the county shall be reimbursed for the expenses of the autopsy when the death scene investigation and the autopsy have been conducted under RCW 43.103.100 (4) and (5), and the autopsy has been done at a facility designed for the performance of autopsies.

(3) Payments from the account shall be made pursuant to biennial appropriation: PROVIDED, That no county may reduce funds appropriated for this purpose below 1983 budgeted levels.

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, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 23, 2019.

Passed by the House April 12, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 318

[Substitute Senate Bill 5734]

HOSPITAL SAFETY NET ASSESSMENT PROGRAM--EXTENSION

AN ACT Relating to the hospital safety net assessment; amending RCW 74.60.005, 74.60.010, 74.60.020, 74.60.030, 74.60.050, 74.60.090, 74.60.120, and 74.60.901; providing an effective date; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 74.60.005 and 2017 c 228 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby support additional payments to hospitals for medicaid services as specified in this chapter.

(2) The legislature finds that federal health care reform will result in an expansion of medicaid enrollment in this state and an increase in federal financial participation.

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

(b) To generate approximately one billion dollars per state fiscal biennium in new state and federal funds by disbursing all of that amount to pay for medicaid hospital services and grants to certified public expenditure and critical access hospitals, except costs of administration as specified in this chapter, in the form of additional payments to hospitals and managed care plans, which may not be a substitute for payments from other sources, but which include quality improvement incentive payments under RCW 74.09.611;

(c) To generate two hundred ninety-two million dollars per biennium during the ~~((2017-2019))~~ 2019-2021 and ~~((2019-2021))~~ 2021-2023 biennia in new funds to be used in lieu of state general fund payments for medicaid hospital services;

(d) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the payments authorized by this chapter;

(e) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the rates the state paid for those services on July 1, 2015, as adjusted for current enrollment and utilization; and

(f) For each of the two biennia starting with fiscal year ~~((2018))~~ 2020 to generate:

(i) Four million dollars for new integrated evidence-based psychiatry residency program slots that did not receive state funding prior to 2016 at the integrated psychiatry residency program at the University of Washington; and

(ii) Eight million two hundred thousand dollars for ~~((new))~~ family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals.

Sec. 2. RCW 74.60.010 and 2017 c 228 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) "Authority" means the health care authority.

(2) "Base year" for medicaid payments for state fiscal year 2017 is state fiscal year 2014. For each following year's calculations, the base year must be updated to the next following year.

(3) "Bordering city hospital" means a hospital as defined in WAC 182-550-1050 and bordering cities as described in WAC 182-501-0175, or successor rules.

(4) "Certified public expenditure hospital" means a hospital participating in ~~((or that at any point from June 30, 2013, to July 1, 2019, has participated in))~~ the authority's certified public expenditure payment program as described in WAC 182-550-4650 or successor rule. ~~((For purposes of this chapter any such hospital shall continue to be treated as a certified public expenditure hospital for assessment and payment purposes through the date specified in RCW 74.60.901.))~~ The eligibility of such hospitals to receive grants under RCW 74.60.090 solely from funds generated under this chapter must remain in effect through the date specified in RCW 74.60.901 and must not be affected by any

modification or termination of the federal certified public expenditure program, or reduced by the amount of any federal funds no longer available for that purpose.

(5) "Critical access hospital" means a hospital as described in RCW 74.09.5225.

(6) "Director" means the director of the health care authority.

(7) "Eligible new prospective payment hospital" means a prospective payment hospital opened after January 1, 2009, for which a full year of cost report data as described in RCW 74.60.030(2) and a full year of medicaid base year data required for the calculations in RCW 74.60.120(3) are available.

(8) "Fund" means the hospital safety net assessment fund established under RCW 74.60.020.

(9) "Hospital" means a facility licensed under chapter 70.41 RCW.

(10) "Long-term acute care hospital" means a hospital which has an average inpatient length of stay of greater than twenty-five days as determined by the department of health.

(11) "Managed care organization" means an organization having a certificate of authority or certificate of registration from the office of the insurance commissioner that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to eligible clients under the authority's medicaid managed care programs, including the healthy options program.

(12) "Medicaid" means the medical assistance program as established in Title XIX of the social security act and as administered in the state of Washington by the authority.

(13) "Medicare cost report" means the medicare cost report, form 2552, or successor document.

(14) "Nonmedicare hospital inpatient day" means total hospital inpatient days less medicare inpatient days, including medicare days reported for medicare managed care plans, as reported on the medicare cost report, form 2552, or successor forms, excluding all skilled and nonskilled nursing facility days, skilled and nonskilled swing bed days, nursery days, observation bed days, hospice days, home health agency days, and other days not typically associated with an acute care inpatient hospital stay.

(15) "Outpatient" means services provided classified as ambulatory payment classification services or successor payment methodologies as defined in WAC 182-550-7050 or successor rule and applies to fee-for-service payments and managed care encounter data.

(16) "Prospective payment system hospital" means a hospital reimbursed for inpatient and outpatient services provided to medicaid beneficiaries under the inpatient prospective payment system and the outpatient prospective payment system as defined in WAC 182-550-1050 or successor rule. For purposes of this chapter, prospective payment system hospital does not include a hospital participating in the certified public expenditure program or a bordering city hospital located outside of the state of Washington and in one of the bordering cities listed in WAC 182-501-0175 or successor rule.

(17) "Psychiatric hospital" means a hospital facility licensed as a psychiatric hospital under chapter 71.12 RCW.

(18) "Rehabilitation hospital" means a medicare-certified freestanding inpatient rehabilitation facility.

(19) "Small rural disproportionate share hospital payment" means a payment made in accordance with WAC 182-550-5200 or successor rule.

(20) "Upper payment limit" means the aggregate federal upper payment limit on the amount of the medicaid payment for which federal financial participation is available for a class of service and a class of health care providers, as specified in 42 C.F.R. Part 47, as separately determined for inpatient and outpatient hospital services.

Sec. 3. RCW 74.60.020 and 2017 c 228 s 3 are each amended to read as follows:

(1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the authority on audit or otherwise shall be returned to the fund.

(a) Any unexpended balance in the fund at the end of a fiscal year shall carry over into the following fiscal year or that fiscal year and the following fiscal year and shall be applied to reduce the amount of the assessment under RCW 74.60.050(1)(c).

(b) Any amounts remaining in the fund after July 1, (~~2021~~) 2023, shall be refunded to hospitals, pro rata according to the amount paid by the hospital since July 1, 2013, subject to the limitations of federal law.

(2) All assessments, interest, and penalties collected by the authority under RCW 74.60.030 and 74.60.050 shall be deposited into the fund.

(3) Disbursements from the fund are conditioned upon appropriation and the continued availability of other funds sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the levels the state paid for those services on July 1, 2015, as adjusted for current enrollment and utilization.

(4) Disbursements from the fund may be made only:

(a) To make payments to hospitals and managed care plans as specified in this chapter;

(b) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(c) For one million dollars per biennium for payment of administrative expenses incurred by the authority in performing the activities authorized by this chapter;

(d) For two hundred ninety-two million dollars per biennium, to be used in lieu of state general fund payments for medicaid hospital services, provided that if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, this amount must be reduced proportionately;

(e) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations in a

final determination by a court of competent jurisdiction with all appeals exhausted. In such a case, the authority may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop either a payment plan, or deduct moneys from future medicaid payments, or both;

(f) To pay an amount sufficient, when combined with the maximum available amount of federal funds necessary to provide a one percent increase in medicaid hospital inpatient rates to hospitals eligible for quality improvement incentives under RCW 74.09.611. By May 16, 2018~~((+))~~, and by each May 16 thereafter, the authority, in cooperation with the department of health, must verify that each hospital eligible to receive quality improvement incentives under the terms of this chapter is in substantial compliance with the reporting requirements in RCW 43.70.052 and 70.01.040 for the prior period. For the purposes of this subsection, "substantial compliance" means, in the prior period, the hospital has submitted at least nine of the twelve monthly reports by the due date. The authority must distribute quality improvement incentives to hospitals that have met these requirements beginning July 1 of 2018 and each July 1 thereafter; and

(g) For each state fiscal year ~~((2018))~~ 2020 through ~~((2021))~~ 2023 to generate:

(i) Two million dollars for ~~((new))~~ integrated evidence-based psychiatry residency program slots that did not receive state funding prior to 2016 at the integrated psychiatry residency program at the University of Washington; and

(ii) Four million one hundred thousand dollars for ~~((new))~~ family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals.

Sec. 4. RCW 74.60.030 and 2017 c 228 s 4 are each amended to read as follows:

(1)(a) Upon satisfaction of the conditions in RCW 74.60.150(1), and so long as the conditions in RCW 74.60.150(2) have not occurred, an assessment is imposed as set forth in this subsection. Assessment notices must be sent on or about thirty days prior to the end of each quarter and payment is due thirty days thereafter.

(b) Effective July 1, 2015, and except as provided in RCW 74.60.050:

(i) Each prospective payment system hospital, except psychiatric and rehabilitation hospitals, shall pay a quarterly assessment. Each quarterly assessment shall be no more than one quarter of three hundred eighty dollars for each annual nonmedicare hospital inpatient day, up to a maximum of fifty-four thousand days per year. For each nonmedicare hospital inpatient day in excess of fifty-four thousand days, each prospective payment system hospital shall pay a quarterly assessment of one quarter of seven dollars for each such day, unless such assessment amount or threshold needs to be modified to comply with applicable federal regulations;

(ii) Each critical access hospital shall pay a quarterly assessment of one quarter of ten dollars for each annual nonmedicare hospital inpatient day;

(iii) Each psychiatric hospital shall pay a quarterly assessment of no more than one quarter of seventy-four dollars for each annual nonmedicare hospital inpatient day; and

(iv) Each rehabilitation hospital shall pay a quarterly assessment of no more than one quarter of seventy-four dollars for each annual nonmedicare hospital inpatient day.

(2) The authority shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under RCW 74.60.040. The authority shall obtain inpatient data from the hospital's 2552 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the authority. For state fiscal year ((2017)) 2021, the authority shall use cost report data for hospitals' fiscal years ending in ((2013)) 2017. For subsequent years, the hospitals' next succeeding fiscal year cost report data must be used.

(a) With the exception of a prospective payment system hospital commencing operations after January 1, 2009, for any hospital without a cost report for the relevant fiscal year, the authority shall work with the affected hospital to identify appropriate supplemental information that may be used to determine annual nonmedicare hospital inpatient days.

(b) A prospective payment system hospital commencing operations after January 1, 2009, must be assessed in accordance with this section after becoming an eligible new prospective payment system hospital as defined in RCW 74.60.010.

Sec. 5. RCW 74.60.050 and 2017 c 228 s 5 are each amended to read as follows:

(1) The authority, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual hospitals, notifying individual hospitals of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Transmittal of notices of assessment by the authority to each hospital informing the hospital of its nonmedicare hospital inpatient days and the assessment amount due and payable;

(b) Interest on delinquent assessments at the rate specified in RCW 82.32.050; and

(c) Adjustment of the assessment amounts in accordance with subsection ((2)) (3) of this section.

(2) For any hospital failing to make an assessment payment within ninety days of its due date, the authority may offset an amount from payments scheduled to be made by the authority to the hospital, reflecting the assessment payments owed by the hospital plus any interest. The authority shall deposit these offset funds into the dedicated hospital safety net assessment fund.

(3) For each state fiscal year, the assessment amounts established under RCW 74.60.030 must be adjusted as follows:

(a) If sufficient other funds, including federal funds, are available to make the payments required under this chapter and fund the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f) without utilizing the full assessment under RCW 74.60.030, the authority shall reduce the amount of the assessment to the minimum levels necessary to support those payments;

(b) If the total amount of inpatient and outpatient supplemental payments under RCW 74.60.120 is in excess of the upper payment limits and the entire excess amount cannot be disbursed by additional payments to managed care organizations under RCW 74.60.130, the authority shall proportionately reduce future assessments on prospective payment hospitals to the level necessary to generate additional payments to hospitals that are consistent with the upper payment limit plus the maximum permissible amount of additional payments to managed care organizations under RCW 74.60.130;

(c) If the amount of payments to managed care organizations under RCW 74.60.130 cannot be distributed because of failure to meet federal actuarial soundness or utilization requirements or other federal requirements, the authority shall apply the amount that cannot be distributed to reduce future assessments to the level necessary to generate additional payments to managed care organizations that are consistent with federal actuarial soundness or utilization requirements or other federal requirements;

(d) If required in order to obtain federal matching funds, the maximum number of nonmedicare inpatient days at the higher rate provided under RCW 74.60.030(1)(b)(i) may be adjusted in order to comply with federal requirements;

(e) If the number of nonmedicare inpatient days applied to the rates provided in RCW 74.60.030 will not produce sufficient funds to support the payments required under this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may be increased proportionately by category of hospital to amounts no greater than necessary in order to produce the required level of funds needed to make the payments specified in this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f); and

(f) Any actual or estimated surplus remaining in the fund at the end of the fiscal year must be applied to reduce the assessment amount for the subsequent fiscal year or that fiscal year and the following fiscal years prior to and including fiscal year (~~(2021)~~) 2023.

~~((3))~~ (4)(a) Any adjustment to the assessment amounts pursuant to this section, and the data supporting such adjustment, including, but not limited to, relevant data listed in (b) of this subsection, must be submitted to the Washington state hospital association for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington state hospital association does not limit the ability of the Washington state hospital association or its members to challenge an adjustment or other action by the authority that is not made in accordance with this chapter.

(b) The authority shall provide the following data to the Washington state hospital association sixty days before implementing any revised assessment levels, detailed by fiscal year, beginning with fiscal year 2011 and extending to the most recent fiscal year, except in connection with the initial assessment under this chapter:

- (i) The fund balance;
- (ii) The amount of assessment paid by each hospital;

(iii) The state share, federal share, and total annual medicaid fee-for-service payments for inpatient hospital services made to each hospital under RCW 74.60.120, and the data used to calculate the payments to individual hospitals under that section;

(iv) The state share, federal share, and total annual medicaid fee-for-service payments for outpatient hospital services made to each hospital under RCW 74.60.120, and the data used to calculate annual payments to individual hospitals under that section;

(v) The annual state share, federal share, and total payments made to each hospital under each of the following programs: Grants to certified public expenditure hospitals under RCW 74.60.090, for critical access hospital payments under RCW 74.60.100; and disproportionate share programs under RCW 74.60.110;

(vi) The data used to calculate annual payments to individual hospitals under (b)(v) of this subsection; and

(vii) The amount of payments made to managed care plans under RCW 74.60.130, including the amount representing additional premium tax, and the data used to calculate those payments.

(c) On a monthly basis, the authority shall provide the Washington state hospital association the amount of payments made to managed care plans under RCW 74.60.130, including the amount representing additional premium tax, and the data used to calculate those payments.

Sec. 6. RCW 74.60.090 and 2017 c 228 s 6 are each amended to read as follows:

(1) In each fiscal year commencing upon satisfaction of the applicable conditions in RCW 74.60.150(1), funds must be disbursed from the fund and the authority shall make grants to certified public expenditure hospitals, which shall not be considered payments for hospital services, as follows:

(a) University of Washington medical center: Ten million five hundred fifty-five thousand dollars in ~~((each))~~ state fiscal year ~~((2018))~~ 2020 and up to twelve million fifty-five thousand dollars in state fiscal year 2021 through ((2024)) 2023 paid as follows, except if the full amount of the payments required under RCW 74.60.120(1) and 74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection must be reduced proportionately:

(i) Four million four hundred fifty-five thousand dollars in state fiscal years 2020 through 2023, except that from state fiscal year 2021 through 2023, if northwest hospital is ineligible to participate in this chapter as a prospective payment hospital, the amount per state fiscal year must be five million nine hundred fifty-five thousand dollars;

(ii) Two million dollars to ~~((new))~~ integrated, evidence-based psychiatry residency program slots that did not receive state funding prior to 2016, at the integrated psychiatry residency program at the University of Washington; and

(iii) Four million one hundred thousand dollars to ~~((new))~~ family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals;

(b) Harborview medical center: Ten million two hundred sixty thousand dollars in each state fiscal year ~~((2018 through 2021))~~ 2020 through 2023, except if the full amount of the payments required under RCW 74.60.120(1) and

74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection must be reduced proportionately;

(c) All other certified public expenditure hospitals: (~~Six million three hundred forty five~~) Five million six hundred fifteen thousand dollars in each state fiscal year (~~(2018 through 2024)~~) 2020 through 2023, except if the full amount of the payments required under RCW 74.60.120(1) and 74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection must be reduced proportionately. The amount of payments to individual hospitals under this subsection must be determined using a methodology that provides each hospital with a proportional allocation of the group's total amount of medicaid and state children's health insurance program payments determined from claims and encounter data using the same general methodology set forth in RCW 74.60.120 (3) and (4).

(2) Payments must be made quarterly, before the end of each quarter, taking the total disbursement amount and dividing by four to calculate the quarterly amount. The authority shall provide a quarterly report of such payments to the Washington state hospital association.

Sec. 7. RCW 74.60.120 and 2017 c 228 s 8 are each amended to read as follows:

(1) In each state fiscal year, commencing upon satisfaction of the applicable conditions in RCW 74.60.150(1), the authority shall make supplemental payments directly to Washington hospitals, separately for inpatient and outpatient fee-for-service medicaid services, as follows unless there are federal restrictions on doing so. If there are federal restrictions, to the extent allowed, funds that cannot be paid under (a) of this subsection, should be paid under (b) of this subsection, and funds that cannot be paid under (b) of this subsection, shall be paid under (a) of this subsection:

(a) For inpatient fee-for-service payments for prospective payment hospitals other than psychiatric or rehabilitation hospitals, twenty-nine million (~~one hundred sixty-two~~) eight hundred ninety-two thousand five hundred dollars per state fiscal year plus federal matching funds;

(b) For outpatient fee-for-service payments for prospective payment hospitals other than psychiatric or rehabilitation hospitals, thirty million dollars per state fiscal year plus federal matching funds;

(c) For inpatient fee-for-service payments for psychiatric hospitals, eight hundred seventy-five thousand dollars per state fiscal year plus federal matching funds;

(d) For inpatient fee-for-service payments for rehabilitation hospitals, two hundred twenty-five thousand dollars per state fiscal year plus federal matching funds;

(e) For inpatient fee-for-service payments for border hospitals, two hundred fifty thousand dollars per state fiscal year plus federal matching funds; and

(f) For outpatient fee-for-service payments for border hospitals, two hundred fifty thousand dollars per state fiscal year plus federal matching funds.

(2) If the amount of inpatient or outpatient payments under subsection (1) of this section, when combined with federal matching funds, exceeds the upper payment limit, payments to each category of hospital in subsection (1)(a) through (f) of this section must be reduced proportionately to a level where the total payment amount is consistent with the upper payment limit. (~~Funds under~~

~~this chapter unable to be paid to hospitals under this section because of the upper payment limit must be paid to managed care organizations under RCW 74.60.130, subject to the limitations in this chapter.) If funds in excess of the upper payment limit cannot be paid under RCW 74.60.130 and if the payment amount in excess of the upper payment limit exceeds fifteen million dollars, the authority shall increase the prospective payment system hospital outpatient hospital payment rate, for hospitals using the safety net funding and federal matching funds that would otherwise have been used to fund the payments under subsection (1) of this section that exceed the upper payment limit. By January 1st of each year, the authority shall provide to the Washington state hospital association an upper payment limit analysis using the latest available claims data for the historic periods in the calculation. If the analysis shows the payments are projected to exceed the upper payment limit by at least fifteen million dollars, the authority shall initiate an outpatient rate increase effective July 1st of that year.~~

(3) The amount of such fee-for-service inpatient payments to individual hospitals within each of the categories identified in subsection (1)(a), (c), (d), and (e) of this section must be determined by:

(a) Totaling the inpatient fee-for-service claims payments and inpatient managed care encounter rate payments for each hospital during the base year;

(b) Totaling the inpatient fee-for-service claims payments and inpatient managed care encounter rate payments for all hospitals during the base year; and

(c) Using the amounts calculated under (a) and (b) of this subsection to determine an individual hospital's percentage of the total amount to be distributed to each category of hospital.

(4) The amount of such fee-for-service outpatient payments to individual hospitals within each of the categories identified in subsection (1)(b) and (f) of this section must be determined by:

(a) Totaling the outpatient fee-for-service claims payments and outpatient managed care encounter rate payments for each hospital during the base year;

(b) Totaling the outpatient fee-for-service claims payments and outpatient managed care encounter rate payments for all hospitals during the base year; and

(c) Using the amounts calculated under (a) and (b) of this subsection to determine an individual hospital's percentage of the total amount to be distributed to each category of hospital.

(5) Sixty days before the first payment in each subsequent fiscal year, the authority shall provide each hospital and the Washington state hospital association with an explanation of how the amounts due to each hospital under this section were calculated.

(6) Payments must be made in quarterly installments on or about the last day of every quarter.

(7) A prospective payment system hospital commencing operations after January 1, 2009, is eligible to receive payments in accordance with this section after becoming an eligible new prospective payment system hospital as defined in RCW 74.60.010.

(8) Payments under this section are supplemental to all other payments and do not reduce any other payments to hospitals.

Sec. 8. RCW 74.60.901 and 2017 c 228 s 12 are each amended to read as follows:

This chapter expires July 1, (~~2021~~) 2023.

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 July 1, 2019.

Passed by the Senate February 26, 2019.

Passed by the House April 25, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 319

[Engrossed Substitute Senate Bill 5741]

ALL-PAYER HEALTH CARE CLAIMS DATABASE--VARIOUS PROVISIONS

AN ACT Relating to making changes to support future operations of the state all payer claims database by transferring the responsibility to the health care authority, partnering with a lead organization with broad data experience, including with self-insured employers, and other changes to improve and ensure successful and sustainable database operations for access to and use of the data to improve health care, providing consumers useful and consistent quality and cost measures, and assess total cost of care in Washington state; amending RCW 43.371.005, 43.371.020, 43.371.030, 43.371.050, 43.371.060, 43.371.070, and 43.371.080; reenacting and amending RCW 43.371.010; adding a new section to chapter 43.371 RCW; creating new sections; and declaring an emergency.

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

Sec. 1. RCW 43.371.005 and 2014 c 223 s 9 are each amended to read as follows:

The legislature finds that:

(1) The activities authorized by this chapter will require collaboration among state agencies and local governments that (~~(purchase))~~ are involved in health care, private health carriers, third-party purchasers, health care providers, and hospitals. These activities will identify strategies to increase the quality and effectiveness of health care delivered in Washington state and are therefore in the best interest of the public.

(2) The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature intends to exempt from state antitrust laws, and provide immunity through the state action doctrine from federal antitrust laws, activities that are undertaken, reviewed, and approved by the (~~(effiee))~~ authority pursuant to this chapter that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities including, but not limited to, agreements among competing providers or carriers to set prices or specific levels of reimbursement for health care services.

Sec. 2. RCW 43.371.010 and 2015 c 246 s 1 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) "Authority" means the health care authority.

(2) "Carrier" and "health carrier" have the same meaning as in RCW 48.43.005.

(3) "Claims data" means the data required by RCW 43.371.030 to be submitted to the database, including billed, allowed and paid amounts, and such additional information as defined by the director in rule.

(4) "Data supplier" means: (a) A carrier, third-party administrator, or a public program identified in RCW 43.371.030 that provides claims data; and (b) a carrier or any other entity that provides claims data to the database at the request of an employer-sponsored self-funded health plan or Taft-Hartley trust health plan pursuant to RCW 43.371.030(1).

(5) "Data vendor" means an entity contracted to perform data collection, processing, aggregation, extracts, analytics, and reporting.

(6) "Database" means the statewide all-payer health care claims database established in RCW 43.371.020.

(7) "Direct patient identifier" means a data variable that directly identifies an individual, including: Names; telephone numbers; fax numbers; social security number; medical record numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators; internet protocol address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(8) "Director" means the director of (~~financial management~~) the authority.

(9) "Indirect patient identifier" means a data variable that may identify an individual when combined with other information.

(10) "Lead organization" means the organization selected under RCW 43.371.020.

(11) "Office" means the office of financial management.

(12) "Proprietary financial information" means claims data or reports that disclose or would allow the determination of specific terms of contracts, discounts, or fixed reimbursement arrangements or other specific reimbursement arrangements between an individual health care facility or health care provider, as those terms are defined in RCW 48.43.005, and a specific payer, or internal fee schedule or other internal pricing mechanism of integrated delivery systems owned by a carrier.

(13) "Unique identifier" means an obfuscated identifier assigned to an individual represented in the database to establish a basis for following the individual longitudinally throughout different payers and encounters in the data without revealing the individual's identity.

Sec. 3. RCW 43.371.020 and 2015 c 246 s 2 are each amended to read as follows:

(1) The office shall establish a statewide all-payer health care claims database (~~(†)~~). On January 1, 2020, the office must transfer authority and oversight for the database to the authority. The office and authority must develop a transition plan that sustains operations by July 1, 2019. The database shall support transparent public reporting of health care information. The database must improve transparency to: Assist patients, providers, and hospitals to make informed choices about care; enable providers, hospitals, and communities to improve by benchmarking their performance against that of others by focusing on best practices; enable purchasers to identify value, build expectations into their purchasing strategy, and reward improvements over time; and promote

competition based on quality and cost. The database must systematically collect all medical claims and pharmacy claims from private and public payers, with data from all settings of care that permit the systematic analysis of health care delivery.

(2) The ~~((office))~~ authority shall use a competitive procurement process, in accordance with chapter 39.26 RCW, to select a lead organization from among the best potential bidders to coordinate and manage the database.

(a)(i) In conducting the competitive procurement, the authority must ensure that no state officer or state employee participating in the procurement process:

(A) Has a current relationship or had a relationship within the last three years with any organization that bids on the procurement that would constitute a conflict with the proper discharge of official duties under chapter 42.52 RCW; or

(B) Is a compensated or uncompensated member of a bidding organization's board of directors, advisory committee, or has held such a position in the past three years.

(ii) If any relationship or interest described in (a)(i) of this subsection is discovered during the procurement process, the officer or employee with the prohibited relationship must withdraw from involvement in the procurement process.

(b) Due to the complexities of the all payer claims database and the unique privacy, quality, and financial objectives, the ~~((office))~~ authority must ~~((award extra points in the scoring evaluation for))~~ give strong consideration to the following elements in determining the appropriate lead organization contractor:

(i) The ~~((bidder's))~~ organization's degree of experience in health care data collection, analysis, analytics, and security; (ii) whether the ~~((bidder))~~ organization has a long-term self-sustainable financial model; (iii) the ~~((bidder's))~~ organization's experience in convening and effectively engaging stakeholders to develop reports, especially among groups of health providers, carriers, and self-insured purchasers; (iv) the ~~((bidder's))~~ organization's experience in meeting budget and timelines for report generations; and (v) the ~~((bidder's))~~ organization's ability to combine cost and quality data to assess total cost of care.

~~((b) By December 31, 2017,))~~ (c) The successful lead organization must apply to be certified as a qualified entity pursuant to 42 C.F.R. Sec. 401.703(a) by the centers for medicare and medicaid services.

(d) The authority may not select a lead organization that:

(i) Is a health plan as defined by and consistent with the definitions in RCW 48.43.005;

(ii) Is a hospital as defined in RCW 70.41.020;

(iii) Is a provider regulated under Title 18 RCW;

(iv) Is a third-party administrator as defined in RCW 70.290.010; or

(v) Is an entity with a controlling interest in any entity covered in (d)(i) through (iv) of this subsection.

(3) As part of the competitive procurement process referenced in subsection (2) of this section, the lead organization shall enter into a contract with a data vendor or multiple data vendors to perform data collection, processing, aggregation, extracts, and analytics. ~~((The))~~ A data vendor must:

(a) Establish a secure data submission process with data suppliers;

(b) Review data submitters' files according to standards established by the ~~((office))~~ authority;

(c) Assess each record's alignment with established format, frequency, and consistency criteria;

(d) Maintain responsibility for quality assurance, including, but not limited to: (i) The accuracy and validity of data suppliers' data; (ii) accuracy of dates of service spans; (iii) maintaining consistency of record layout and counts; and (iv) identifying duplicate records;

(e) Assign unique identifiers, as defined in RCW 43.371.010, to individuals represented in the database;

(f) Ensure that direct patient identifiers, indirect patient identifiers, and proprietary financial information are released only in compliance with the terms of this chapter;

(g) Demonstrate internal controls and affiliations with separate organizations as appropriate to ensure safe data collection, security of the data with state of the art encryption methods, actuarial support, and data review for accuracy and quality assurance;

(h) Store data on secure servers that are compliant with the federal health insurance portability and accountability act and regulations, with access to the data strictly controlled and limited to staff with appropriate training, clearance, and background checks; and

(i) Maintain state of the art security standards for transferring data to approved data requestors.

(4) The lead organization and data vendor must submit detailed descriptions to the office of the chief information officer to ensure robust security methods are in place. The office of the chief information officer must report its findings to the ~~((office))~~ authority and the appropriate committees of the legislature.

(5) The lead organization is responsible for internal governance, management, funding, and operations of the database. At the direction of the ~~((office))~~ authority, the lead organization shall work with the data vendor to:

(a) Collect claims data from data suppliers as provided in RCW 43.371.030;

(b) Design data collection mechanisms with consideration for the time and cost incurred by data suppliers and others in submission and collection and the benefits that measurement would achieve, ensuring the data submitted meet quality standards and are reviewed for quality assurance;

(c) Ensure protection of collected data and store and use any data in a manner that protects patient privacy and complies with this section. All patient-specific information must be deidentified with an up-to-date industry standard encryption algorithm;

(d) Consistent with the requirements of this chapter, make information from the database available as a resource for public and private entities, including carriers, employers, providers, hospitals, and purchasers of health care;

(e) Report performance on cost and quality pursuant to RCW 43.371.060 using, but not limited to, the performance measures developed under RCW 41.05.690;

(f) Develop protocols and policies, including pre-release peer review by data suppliers, to ensure the quality of data releases and reports;

(g) Develop a plan for the financial sustainability of the database as ~~((self-sustaining))~~ may be reasonable and customary as compared to other states'

databases and charge fees for reports and data files as needed to fund the database. Any fees must be approved by the ~~((office))~~ authority and should be comparable, accounting for relevant differences across data requests and uses. The lead organization may not charge providers or data suppliers fees other than fees directly related to requested reports and data files; and

(h) Convene advisory committees with the approval and participation of the ~~((office))~~ authority, including: (i) A committee on data policy development; and (ii) a committee to establish a data release process consistent with the requirements of this chapter and to provide advice regarding formal data release requests. The advisory committees must include in-state representation from key provider, hospital, public health, health maintenance organization, large and small private purchasers, consumer organizations, and the two largest carriers supplying claims data to the database.

(6) The lead organization governance structure and advisory committees for this database must include representation of the third-party administrator of the uniform medical plan. A payer, health maintenance organization, or third-party administrator must be a data supplier to the all-payer health care claims database to be represented on the lead organization governance structure or advisory committees.

Sec. 4. RCW 43.371.030 and 2015 c 246 s 3 are each amended to read as follows:

(1) The state medicaid program, public employees' benefits board programs, school employees' benefits board programs beginning July 1, 2020, all health carriers operating in this state, all third-party administrators paying claims on behalf of health plans in this state, and the state labor and industries program must submit claims data to the database within the time frames established by the director in rule and in accordance with procedures established by the lead organization. The director may expand this requirement by rule to include any health plans or health benefit plans defined in RCW 48.43.005(26) (a) through (i) to accomplish the goals of this chapter set forth in RCW 43.371.020(1). Employer-sponsored self-funded health plans and Taft-Hartley trust health plans may voluntarily provide claims data to the database within the time frames and in accordance with procedures established by the lead organization.

(2) Any data supplier used by an entity that voluntarily participates in the database must provide claims data to the data vendor upon request of the entity.

(3) The lead organization shall submit an annual status report to the ~~((office))~~ authority regarding compliance with this section.

Sec. 5. RCW 43.371.050 and 2015 c 246 s 5 are each amended to read as follows:

(1) Except as otherwise required by law, claims or other data from the database shall only be available for retrieval in processed form to public and private requesters pursuant to this section and shall be made available within a reasonable time after the request. Each request for claims data must include, at a minimum, the following information:

(a) The identity of any entities that will analyze the data in connection with the request;

(b) The stated purpose of the request and an explanation of how the request supports the goals of this chapter set forth in RCW 43.371.020(1);

(c) A description of the proposed methodology;

(d) The specific variables requested and an explanation of how the data is necessary to achieve the stated purpose described pursuant to (b) of this subsection;

(e) How the requester will ensure all requested data is handled in accordance with the privacy and confidentiality protections required under this chapter and any other applicable law;

(f) The method by which the data will be (~~stored,~~) destroyed(~~;~~ ~~or returned to the lead organization~~) at the conclusion of the data use agreement;

(g) The protections that will be utilized to keep the data from being used for any purposes not authorized by the requester's approved application; and

(h) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(2) The lead organization may decline a request that does not include the information set forth in subsection (1) of this section that does not meet the criteria established by the lead organization's data release advisory committee, or for reasons established by rule.

(3) Except as otherwise required by law, the (~~office~~) authority shall direct the lead organization and the data vendor to maintain the confidentiality of claims or other data it collects for the database that include proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Any entity that receives claims or other data must also maintain confidentiality and may only release such claims data or any part of the claims data if:

(a) The claims data does not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof; and

(b) The release is described and approved as part of the request in subsection (1) of this section.

(4) The lead organization shall, in conjunction with the (~~office~~) authority and the data vendor, create and implement a process to govern levels of access to and use of data from the database consistent with the following:

(a) Claims or other data that include proprietary financial information, direct patient identifiers, indirect patient identifiers, unique identifiers, or any combination thereof may be released only to the extent such information is necessary to achieve the goals of this chapter set forth in RCW 43.371.020(1) to researchers with approval of an institutional review board upon receipt of a signed data use and confidentiality agreement with the lead organization. A researcher or research organization that obtains claims data pursuant to this subsection must agree in writing not to disclose such data or parts of the data set to any other party, including affiliated entities, and must consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(b) Claims or other data that do not contain direct patient identifiers, but that may contain proprietary financial information, indirect patient identifiers, unique identifiers, or any combination thereof may be released to:

(i) Federal, state, tribal, and local government agencies upon receipt of a signed data use agreement with the (~~(office)~~) authority and the lead organization. Federal, state, tribal, and local government agencies that obtain claims data pursuant to this subsection are prohibited from using such data in the purchase or procurement of health benefits for their employees; (~~and~~)

(ii) Any entity when functioning as the lead organization under the terms of this chapter; and

(iii) The Washington health benefit exchange established under chapter 43.71 RCW, upon receipt of a signed data use agreement with the authority and the lead organization as directed by rules adopted under this chapter.

(c) Claims or other data that do not contain proprietary financial information, direct patient identifiers, or any combination thereof, but that may contain indirect patient identifiers, unique identifiers, or a combination thereof may be released to agencies, researchers, and other entities as approved by the lead organization upon receipt of a signed data use agreement with the lead organization.

(d) Claims or other data that do not contain direct patient identifiers, indirect patient identifiers, proprietary financial information, or any combination thereof may be released upon request.

(5) Reports utilizing data obtained under this section may not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Nothing in this subsection (5) may be construed to prohibit the use of geographic areas with a sufficient population size or aggregate gender, age, medical condition, or other characteristics in the generation of reports, so long as they cannot lead to the identification of an individual.

(6) Reports issued by the lead organization at the request of providers, facilities, employers, health plans, and other entities as approved by the lead organization may utilize proprietary financial information to calculate aggregate cost data for display in such reports. The (~~(office)~~) authority shall approve by rule a format for the calculation and display of aggregate cost data consistent with this chapter that will prevent the disclosure or determination of proprietary financial information. In developing the rule, the (~~(office)~~) authority shall solicit feedback from the stakeholders, including those listed in RCW 43.371.020(5)(h), and must consider, at a minimum, data presented as proportions, ranges, averages, and medians, as well as the differences in types of data gathered and submitted by data suppliers.

(7) Recipients of claims or other data under subsection (4) of this section must agree in a data use agreement or a confidentiality agreement to, at a minimum:

(a) Take steps to protect data containing direct patient identifiers, indirect patient identifiers, proprietary financial information, or any combination thereof as described in the agreement;

(b) Not redisclose the claims data except pursuant to subsection (3) of this section;

(c) Not attempt to determine the identity of any person whose information is included in the data set or use the claims or other data in any manner that identifies any individual or their family or attempt to locate information associated with a specific individual;

(d) Destroy ~~((or return))~~ claims data ~~((to the lead organization))~~ at the conclusion of the data use agreement; and

(e) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

Sec. 6. RCW 43.371.060 and 2015 c 246 s 6 are each amended to read as follows:

(1)(a) Under the supervision of and through contract with the ~~((office))~~ authority, the lead organization shall prepare health care data reports using the database and the statewide health performance and quality measure set. Prior to the lead organization releasing any health care data reports that use claims data, the lead organization must submit the reports to the ~~((office))~~ authority for review.

(b) By October 31st of each year, the lead organization shall submit to the director a list of reports it anticipates producing during the following calendar year. The director may establish a public comment period not to exceed thirty days, and shall submit the list and any comment to the appropriate committees of the legislature for review.

(2)(a) Health care data reports that use claims data prepared by the lead organization for the legislature and the public should promote awareness and transparency in the health care market by reporting on:

(i) Whether providers and health systems deliver efficient, high quality care; and

(ii) Geographic and other variations in medical care and costs as demonstrated by data available to the lead organization.

(b) Measures in the health care data reports should be stratified by demography, income, language, health status, and geography when feasible with available data to identify disparities in care and successful efforts to reduce disparities.

(c) Comparisons of costs among providers and health care systems must account for differences in the case mix and severity of illness of patients and populations, as appropriate and feasible, and must take into consideration the cost impact of subsidization for uninsured and government-sponsored patients, as well as teaching expenses, when feasible with available data.

(3) The lead organization may not publish any data or health care data reports that:

(a) Directly or indirectly identify individual patients;

(b) Disclose a carrier's proprietary financial information; ~~((or))~~

(c) Compare performance in a report generated for the general public that includes any provider in a practice with fewer than four providers; or

(d) Contain medicaid data that is in direct conflict with the biannual medicaid forecast.

(4) The lead organization may not release a report that compares and identifies providers, hospitals, or data suppliers unless:

(a) It allows the data supplier, the hospital, or the provider to verify the accuracy of the information submitted to the data vendor, comment on the reasonableness of conclusions reached, and submit to the lead organization and data vendor any corrections of errors with supporting evidence and comments within thirty days of receipt of the report;

(b) It corrects data found to be in error within a reasonable amount of time; and

(c) The report otherwise complies with this chapter.

(5) The ~~((office))~~ authority and the lead organization may use claims data to identify and make available information on payers, providers, and facilities, but may not use claims data to recommend or incentivize direct contracting between providers and employers.

(6)(a) The lead organization shall distinguish in advance to the ~~((office))~~ authority when it is operating in its capacity as the lead organization and when it is operating in its capacity as a private entity. Where the lead organization acts in its capacity as a private entity, it may only access data pursuant to RCW 43.371.050(4) (b), (c), or (d).

(b) Except as provided in RCW 43.371.050(4), claims or other data that contain direct patient identifiers or proprietary financial information must remain exclusively in the custody of the data vendor and may not be accessed by the lead organization.

Sec. 7. RCW 43.371.070 and 2015 c 246 s 7 are each amended to read as follows:

(1) The director shall adopt any rules necessary to implement this chapter, including:

(a) Definitions of claim and data files that data suppliers must submit to the database, including: Files for covered medical services, pharmacy claims, and dental claims; member eligibility and enrollment data; and provider data with necessary identifiers;

(b) Deadlines for submission of claim files;

(c) Penalties for failure to submit claim files as required;

(d) Procedures for ensuring that all data received from data suppliers are securely collected and stored in compliance with state and federal law;

(e) Procedures for ensuring compliance with state and federal privacy laws;

(f) Procedures for establishing appropriate fees;

(g) Procedures for data release; ~~((and))~~

(h) Penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information; and

(i) A minimum reporting threshold below which a data supplier is not required to submit data.

(2) The director may not adopt rules, policies, or procedures beyond the authority granted in this chapter.

Sec. 8. RCW 43.371.080 and 2015 c 246 s 8 are each amended to read as follows:

~~(1) ((By December 1st of 2016 and 2017, the office shall report to the appropriate committees of the legislature regarding the development and implementation of the database, including but not limited to budget and cost detail, technical progress, and work plan metrics.~~

(2) ~~Every two years commencing two years following the year in which the first report is issued or the first release of data is provided from the database, the office)~~ The authority shall report every two years to the appropriate committees of the legislature regarding the cost, performance, and effectiveness of the

database and the performance of the lead organization under its contract with the ~~((office))~~ authority. Using independent economic expertise, subject to appropriation, the report must evaluate whether the database has advanced the goals set forth in RCW 43.371.020(1), as well as the performance of the lead organization. The report must also make recommendations regarding but not limited to how the database can be improved, whether the contract for the lead organization should be modified, renewed, or terminated, and the impact the database has had on competition between and among providers, purchasers, and payers.

~~(((3) Beginning July 1, 2015, and every six months thereafter, the office))~~
 (2) The authority shall annually report to the appropriate committees of the legislature regarding any additional grants received or extended.

NEW SECTION. Sec. 9. A new section is added to chapter 43.371 RCW to read as follows:

(1) To ensure the database is meeting the needs of state agencies and other data users, the authority shall convene a state agency coordinating structure, consisting of state agencies with related data needs and the Washington health benefit exchange to ensure effectiveness of the database and the agencies' programs. The coordinating structure must collaborate in a private/public manner with the lead organization and other partners key to the broader success of the database. The coordinating structure shall advise the authority and lead organization on the development of any database policies and rules relevant to agency data needs.

(2) The office must participate as a key part of the coordinating structure and evaluate progress towards meeting the goals of the database, and, as necessary, recommend strategies for maintaining and promoting the progress of the database in meeting the intent of this section, and report its findings biennially to the governor and the legislature. The authority shall facilitate the office obtaining the information needed to complete the report in a manner that is efficient and not overly burdensome for the parties. The authority must provide the office with access to database processes, procedures, nonproprietary methodologies, and outcomes to conduct the review and issue the biennial report. The biennial review shall assess, at a minimum the following:

(a) The list of approved agency use case projects and related data requirements under RCW 43.371.050(4);

(b) Successful and unsuccessful data requests and outcomes related to agency and nonagency health researchers pursuant to RCW 43.371.050(4);

(c) On-line data portal access and effectiveness related to research requests and data provider review and reconsideration;

(d) Adequacy of data security and policy consistent with the policy of the office of the chief information officer; and

(e) Timeliness, adequacy, and responsiveness of the database with regard to requests made under RCW 43.371.050(4) and for potential improvements in data sharing, data processing, and communication.

(3) To promote the goal of improving health outcomes through better cost and quality information, the authority, in consultation with the agency coordinating structure, the office, lead organization, and data vendor shall make recommendations to the Washington state performance measurement

coordinating committee as necessary to improve the effectiveness of the state common measure set as adopted under RCW 70.320.030.

NEW SECTION. Sec. 10. The lead organization and the authority shall provide any persons or entities that have a signed data use agreement with the lead organization in effect on June 1, 2019, with the option to extend the data use agreement through June 30, 2020. Any person or entity that chooses to extend its data use agreement through June 30, 2020, may not be charged any fees in excess of the fees in the data use agreement in effect on June 1, 2019.

NEW SECTION. Sec. 11. (1) The powers, duties, and functions of the office of financial management provided in chapter 43.371 RCW, except as otherwise specified in this act, are transferred to the health care authority.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material necessary for the health care authority to carry out the powers, duties, and functions in chapter 43.371 RCW being transferred from the office of financial management to the health care authority and that are in the possession of the office of financial management must be delivered to the custody of the health care authority. All funds or credits of the office of financial management that are solely for the purposes of fulfilling the powers, duties, and functions in chapter 43.371 RCW shall be assigned to the health care authority.

(b) Any specific appropriations made to the office of financial management for the sole purpose of fulfilling the duties, powers, and functions in chapter 43.371 RCW must, on the effective date of this section, be transferred and credited to the health care authority.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management must make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and pending business before the office of financial management specifically related to its powers, duties, and functions in chapter 43.371 RCW that are being transferred to the health care authority shall be continued and acted upon by the health care authority. All existing contracts and obligations remain in full force and must be performed by the health care authority.

(4) The transfer of the powers, duties, and functions of the office of financial management does not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these must make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

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, 2019, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 13.** 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 26, 2019.

Passed by the House April 24, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 320

[Substitute Senate Bill 5894]

FIREFIGHTERS' PENSION LEVY--USE FOR LEOFF 1 MEDICAL BENEFITS

AN ACT Relating to clarifying that the firefighters' pension levy may continue to be levied to fund benefits under the law enforcement officers' and firefighters' retirement system; and amending RCW 41.16.060.

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

Sec. 1. RCW 41.16.060 and 1987 c 319 s 2 are each amended to read as follows:

(1) It (~~shall be~~) is the duty of the legislative authority of each municipality, each year as a part of its annual tax levy, to levy and place in the fund a tax of twenty-two and one-half cents per thousand dollars of assessed value against all the taxable property of such municipality: PROVIDED, That if a report by a qualified actuary on the condition of the fund establishes that the whole or any part of said dollar rate is not necessary to maintain the actuarial soundness of the fund, the levy of said twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of (~~said~~) such dollar rate may be levied and used for any other municipal purpose.

(2) It (~~shall be~~) is the duty of the legislative authority of each municipality, each year as a part of its annual tax levy and in addition to the city levy limit set forth in RCW 84.52.043, to levy and place in the fund an additional tax of twenty-two and one-half cents per thousand dollars of assessed value against all taxable property of such municipality: PROVIDED, That if a report by a qualified actuary establishes that all or any part of the additional twenty-two and one-half cents per thousand dollars of assessed value levy is unnecessary to meet the estimated demands on the fund under this chapter for the ensuing budget year, the levy of said additional twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of such dollar rate may be levied and used for any other municipal purpose, subject to subsection (4) of this section: PROVIDED FURTHER, That cities that have annexed to library districts according to RCW 27.12.360 through 27.12.395 and/or fire protection districts according to RCW 52.04.061 through 52.04.081 (~~shall~~) may not levy this additional tax to the extent that it causes the combined levies to exceed the statutory or constitutional limits.

(3) The amount of a levy under this section allocated to the pension fund may be reduced in the same proportion as the regular property tax levy of the municipality is reduced by chapter 84.55 RCW.

(4) If a municipality no longer has any beneficiaries receiving benefits under this chapter, the whole or any part of such additional levy under

subsection (2) of this section may continue to be levied for the payment of benefits provided under RCW 41.26.150(1) or other municipal purpose until such time that the municipality no longer has any beneficiaries receiving benefits under RCW 41.26.150(1), however the proceeds of the additional levy must be annually expended for payment of benefits provided under RCW 41.26.150(1) prior to being spent for any other purpose.

Passed by the Senate April 27, 2019.

Passed by the House April 25, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 321

[Engrossed Senate Bill 5937]

COMMERCIAL MOTOR VEHICLE LAMP COLORS

AN ACT Relating to the color of stop lamps on vehicles; and amending RCW 46.37.100 and 46.37.200.

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

Sec. 1. RCW 46.37.100 and 2002 c 196 s 1 are each amended to read as follows:

(1) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(2) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(3) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop lamp or other signal device, which may be red, amber, or yellow, and except that on any vehicle forty or more years old, or on any motorcycle regardless of age, the taillight may also contain a blue or purple insert of not more than one inch in diameter, and except that the light illuminating the license plate shall be white and the light emitted by a backup lamp shall be white or amber. However, for commercial motor vehicles defined in RCW 46.32.005, stop lamps must be red and other signal devices must be red or amber.

Sec. 2. RCW 46.37.200 and 2006 c 306 s 3 are each amended to read as follows:

(1) Any vehicle may be equipped and when required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet and on any vehicle manufactured or assembled after January 1, 1964, three hundred feet to the rear in normal sunlight, and which shall be actuated upon application of a service brake, and which may but need not be incorporated with one or more other rear lamps. However, for commercial motor vehicles defined in RCW 46.32.005, stop lamps must be red.

(2) Any vehicle may be equipped and when required under RCW 46.37.070(2) shall be equipped with electric turn signals which shall indicate an

intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: PROVIDED, That on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamp showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than five hundred feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

(3) Any vehicle may be equipped and when required under this chapter shall be equipped with a center high-mounted stop lamp mounted on the center line of the rear of the vehicle. These stop lamps shall display a red light visible from a distance of not less than three hundred feet to the rear in normal sunlight, and shall be actuated upon application of a service brake, and may not be incorporated with any other rear lamps.

Passed by the Senate April 27, 2019.

Passed by the House April 9, 2019.

Approved by the Governor May 8, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 322

[Engrossed Second Substitute House Bill 1646]

JUVENILE REHABILITATION--VARIOUS PROVISIONS

AN ACT Relating to confinement in juvenile rehabilitation facilities; amending RCW 72.01.410, 13.40.300, 13.40.0357, 13.04.030, and 13.40.110; amending 2018 c 162 s 9 (uncodified); adding new sections to chapter 72.01 RCW; adding a new section to chapter 43.216 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. The legislature recognizes state and national efforts to reform policies that incarcerate youth and young adults in the adult criminal justice system. The legislature acknowledges that transferring youth and young adults to the adult criminal justice system is not effective in reducing future criminal behavior. Youth and young adults incarcerated in the adult criminal justice system are more likely to recidivate than their counterparts housed in juvenile facilities.

The legislature intends to enhance community safety by emphasizing rehabilitation of juveniles convicted even of the most serious violent offenses under the adult criminal justice system. Juveniles adjudicated as adults should be served and housed within the facilities of the juvenile rehabilitation administration up until age twenty-five, but released earlier if their sentence ends prior to that. In doing so, the legislature takes advantage of recent changes made by congress during the reauthorization of the juvenile justice and delinquency prevention act by the juvenile justice reform act of 2018 that allow youth and young adults who at the time of their offense are younger than the maximum age

of confinement in a juvenile correctional facility, to be placed in a juvenile correctional facility by operation of state law. The emphasis on rehabilitation up to age twenty-five reflects similar programming in other states, which has significantly reduced recidivism of juveniles confined in adult correctional facilities.

Sec. 2. RCW 72.01.410 and 2017 3rd sp.s. c 6 s 728 are each amended to read as follows:

(1) Whenever any ~~((child under the age of eighteen))~~ person is convicted as an adult in the courts of this state of a ~~((crime amounting to a))~~ felony offense committed under the age of eighteen, and is committed for a term of confinement, that ~~((child))~~ person shall be initially placed in a facility operated by the department of ~~((corrections to))~~ children, youth, and families. The department of corrections shall determine the ~~((child's))~~ person's earned release date.

~~(a) ((If the earned release date is prior to the child's twenty-first birthday, the department of corrections shall transfer the child to the custody of the department of children, youth, and families, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child completes the ordered term of confinement or arrives at the age of twenty-one years.~~

~~((i))~~ While in the custody of the department of children, youth, and families, the ~~((child))~~ person must have the same treatment, housing options, transfer, and access to program resources as any other ~~((child))~~ person committed ~~((directly))~~ to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Except as provided under (d) of this subsection, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. The ~~((youth))~~ person shall ~~((only))~~ not be transferred ~~((back))~~ to the custody of the department of corrections ~~((with))~~ without the approval of the department of children, youth, and families ~~((or when the child))~~ until the person reaches the age of ((twenty-one)) twenty-five.

~~((ii))~~ ~~(b)~~ If the ~~((child's))~~ person's sentence includes a term of community custody, the department of children, youth, and families shall not release the ~~((child))~~ person to community custody until the department of corrections has approved the ~~((child's))~~ person's release plan pursuant to RCW 9.94A.729(5)(b). If a ~~((child))~~ person is held past his or her earned release date pending release plan approval, the department of children, youth, and families shall retain custody until a plan is approved or the ~~((child))~~ person completes the ordered term of confinement prior to age ~~((twenty-one))~~ twenty-five.

~~((iii))~~ ~~(c)~~ If the department of children, youth, and families determines that retaining custody of the ~~((child))~~ person in a facility of the department of children, youth, and families presents a significant safety risk, the ~~((child may be returned))~~ department of children, youth, and families may transfer the person to the custody of the department of corrections.

~~((b) If the child's earned release date is on or after the child's twenty-first birthday, the department of corrections shall, with the consent of the secretary of children, youth, and families, transfer the child to a facility or institution operated by the department of children, youth, and families. Despite the transfer,))~~ ~~(d)~~ The department of corrections ~~((retains))~~ must retain authority over custody decisions relating to a person whose earned release date is on or

after the person's twenty-fifth birthday and who is placed in a facility operated by the department of children, youth, and families under this section, unless the person qualifies for partial confinement under section 6 of this act, and must approve any leave from the facility. When the ((child)) person turns age ((twenty-one)) twenty-five, he or she must be transferred ((back)) to the department of corrections, except as described under section 6 of this act. The department of children, youth, and families has all routine and day-to-day operations authority for the ((child)) person while the person is in its custody.

(2)(a) Except as provided in (b) and (c) of this subsection, ~~((an offender)) a person under the age of eighteen who is ((convicted in adult criminal court and who is committed to a term of confinement at))~~ transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from ((offenders)) other persons in custody who are eighteen years of age or older, until the ((offender)) person reaches the age of eighteen.

(b) ~~((An offender))~~ A person who is transferred to the custody of the department of corrections and reaches eighteen years of age may remain in a housing unit for ((offenders)) persons under the age of eighteen if the secretary of corrections determines that: (i) The ((offender's)) person's needs and the ((correctional)) rehabilitation goals for the ((offender)) person could continue to be better met by the programs and housing environment that is separate from ((offenders)) other persons in custody who are eighteen years of age and older; and (ii) the programs or housing environment for ((offenders)) persons under the age of eighteen will not be substantially affected by the continued placement of the ((offender)) person in that environment. The ((offender)) person may remain placed in a housing unit for ((offenders)) persons under the age of eighteen until such time as the secretary of corrections determines that the ((offender's)) person's needs and ((correctional)) goals are no longer better met in that environment but in no case past the ((offender's twenty-first)) person's twenty-fifth birthday.

(c) ~~((An offender))~~ A person transferred to the custody of the department of corrections who is under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

(3) The department of children, youth, and families must review the placement of a person over age twenty-one in the custody of the department of children, youth, and families under this section to determine whether the person should be transferred to the custody of the department of corrections. The department of children, youth, and families may determine the frequency of the review required under this subsection, but the review must occur at least once before the person reaches age twenty-three if the person's commitment period in a juvenile institution extends beyond the person's twenty-third birthday.

Sec. 3. RCW 13.40.300 and 2018 c 162 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a juvenile offender may not be committed by the juvenile court to the department of children, youth,

and families for placement in a juvenile (~~(correctional institution)~~) rehabilitation facility beyond the juvenile offender's twenty-first birthday.

(2) A juvenile offender (~~(convicted)~~) adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), may be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile (~~(correctional institution)~~) rehabilitation facility up to the juvenile offender's twenty-fifth birthday, but not beyond.

(3) A juvenile may be under the jurisdiction of the juvenile court or the authority of the department of children, youth, and families beyond the juvenile's eighteenth birthday only if prior to the juvenile's eighteenth birthday:

(a) Proceedings are pending seeking the adjudication of a juvenile offense and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile beyond his or her eighteenth birthday, except:

(i) If the court enters a written order extending jurisdiction under this subsection, it shall not extend jurisdiction beyond the juvenile's twenty-first birthday;

(ii) If the order fails to specify a specific date, it shall be presumed that jurisdiction is extended to age twenty-one; and

(iii) If the juvenile court previously extended jurisdiction beyond the juvenile's eighteenth birthday, and that period of extension has not expired, the court may further extend jurisdiction by written order setting forth its reasons;

(b) The juvenile has been found guilty after a fact finding or after a plea of guilty and an automatic extension is necessary to allow for the imposition of disposition;

(c) Disposition has been held and an automatic extension is necessary to allow for the execution and enforcement of the court's order of disposition, subject to the following:

(i) If an order of disposition imposes commitment to the department, then jurisdiction is automatically extended to include a period of up to twelve months of parole, in no case extending beyond the offender's twenty-first birthday, except;

(ii) If an order of disposition imposes a commitment to the department for a juvenile offender (~~(convicted)~~) adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), then jurisdiction for parole is automatically extended to include a period of up to twenty-four months of parole, in no case extending beyond the offender's twenty-fifth birthday;

(d) While proceedings are pending in a case in which jurisdiction is vested in the adult criminal court pursuant to RCW 13.04.030, the juvenile turns eighteen years of age and is subsequently found not guilty of the charge for which he or she was transferred, or is convicted in the adult criminal court of (~~(a lesser included)~~) an offense that is not also an offense listed in RCW 13.04.030(1)(e)(v), and an automatic extension is necessary to impose the juvenile disposition as required by RCW 13.04.030(1)(e)(v)(C)(II); or

(e) Pursuant to the terms of RCW 13.40.190 and 13.40.198, the juvenile court maintains jurisdiction beyond the juvenile offender's twenty-first birthday for the purpose of enforcing an order of restitution or penalty assessment.

(4) Except as otherwise provided herein, in no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender's twenty-first birthday.

(5) Notwithstanding any extension of jurisdiction over a person pursuant to this section, the juvenile court has no jurisdiction over any offenses alleged to have been committed by a person eighteen years of age or older.

NEW SECTION. **Sec. 4.** A new section is added to chapter 72.01 RCW to read as follows:

(1) Any person in the custody of the department of social and health services or the department of children, youth, and families on or before the effective date of this section, who was under the age of eighteen at the time of the commission of the offense and who was convicted as an adult, must remain in the custody of the department of children, youth, and families until transfer to the department of corrections or release pursuant to RCW 72.01.410.

(2) Any person in the custody of the department of corrections on the effective date of this section, who was under the age of eighteen at the time of the commission of the offense and who was convicted as an adult, and who has not yet reached the age of twenty-five, is eligible for transfer to the custody of the department of children, youth, and families beginning January 1, 2020, subject to the process established in subsection (3) of this section.

(3) By February 1, 2020, the department of corrections and the department of children, youth, and families must review and determine whether a person identified in subsection (2) of this section should transfer from the department of corrections to the department of children, youth, and families through the following process:

(a) No later than September 1, 2019, the department of corrections and the department of children, youth, and families shall establish, through a memorandum of understanding, a multidisciplinary interagency team to conduct a case-by-case review of the transfer of persons from the department of corrections to the department of children, youth, and families pursuant to subsection (2) of this section. The multidisciplinary interagency team must include a minimum of three representatives from the department of corrections and three representatives from the department of children, youth, and families, and must provide the person whose transfer is being considered an opportunity to consent to the transfer. In considering whether a transfer to the department of children, youth, and families is appropriate, the multidisciplinary interagency team may consider any relevant factors including, but not limited to:

(i) The safety and security of the person, staff, and other persons in the custody of the department of children, youth, and families;

(ii) The person's behavior and assessed risks and needs;

(iii) Whether the department of children, youth, and families or the department of corrections' programs are better equipped to facilitate successful rehabilitation and reentry into the community; and

(iv) Any statements regarding the transfer made by the person whose transfer is being considered.

(b) After reviewing each proposed transfer, the multidisciplinary interagency team shall make a recommendation regarding the transfer to the secretaries of the department of children, youth, and families and the department of corrections. This recommendation must be provided to the secretaries of each department by January 1, 2020.

(c) The secretaries of the department of children, youth, and families and the department of corrections, or their designees, shall approve or deny the transfer within thirty days of receiving the recommendation of the multidisciplinary interagency team, and by no later than February 1, 2020.

(4) This section expires July 1, 2021.

Sec. 5. 2018 c 162 s 9 (uncodified) is amended to read as follows:

(1) The Washington state institute for public policy must:

(a) Assess the impact of ~~((this act))~~ chapter 162, Laws of 2018, and sections 2 through 6, chapter . . . , Laws of 2019 (sections 2 through 6 of this act) on community safety, racial disproportionality, recidivism, state expenditures, and youth rehabilitation, to the extent possible(ç); and

(b) Conduct a cost-benefit analysis, including health impacts and recidivism effects, of extending RCW 72.01.410 to include all offenses committed under the age of twenty-one.

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

NEW SECTION. Sec. 6. A new section is added to chapter 72.01 RCW to read as follows:

(1) A person in the custody of the department of children, youth, and families under RCW 72.01.410 who has an earned release date that is after the person's twenty-fifth birthday but on or before the person's twenty-sixth birthday may, after turning twenty-five, serve the remainder of the person's term of confinement in partial confinement on electronic home monitoring under the authority and supervision of the department of children, youth, and families, provided that the department of children, youth, and families determines that such placement and retention by the department of children, youth, and families is in the best interests of the person and the community. The department of children, youth, and families retains the authority to transfer the person to the custody of the department of corrections under RCW 72.01.410.

(2) A person placed on electronic home monitoring under this section must otherwise continue to be subject to similar treatment, options, access to programs and resources, conditions, and restrictions applicable to other similarly situated persons under the jurisdiction of the department of children, youth, and families. If the person has a sentence that includes a term of community custody, this term of community custody must begin after the current term of confinement has ended.

(3) If a person placed on electronic home monitoring under this section commits a violation requiring the return of the person to total confinement, the person must be transferred to the custody and supervision of the department of corrections for the remainder of the sentence.

NEW SECTION. Sec. 7. A new section is added to chapter 43.216 RCW to read as follows:

(1) The department shall meet regularly with the school districts that educate students who are in the custody of medium and maximum security facilities operated by juvenile rehabilitation to help coordinate activities in areas of common interest, such as communication with parents. The office of the superintendent of public instruction shall facilitate upon request of the department.

(2) The office of the superintendent of public instruction, in collaboration with the department, shall create a comprehensive plan for the education of students in juvenile rehabilitation and provide it to the governor and relevant committees of the legislature by September 1, 2020.

Sec. 8. RCW 13.40.0357 and 2018 c 162 s 3 are each 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+)) <u>A</u>
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+
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 Marihuana <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
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) ((iv)) (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+
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
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+)) <u>A</u>
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
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+
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

¹Escape 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

²If 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				
	A	30-40	52-65	80-100	103-129	103-129
	-	weeks	weeks	weeks	weeks	weeks
	B	15-36	52-65	80-100	103-129	103-129
	+	weeks	weeks	weeks	weeks	weeks
	+					
	B	15-36	15-36	52-65	80-100	103-129
	+	weeks	weeks	weeks	weeks	weeks
CURRENT OFFENSE	B	LS	LS	15-36	15-36	52-65
				weeks	weeks	weeks
CATEGORY	C	LS	LS	LS	15-36	15-36
	+				weeks	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 13.04.030 and 2018 c 162 s 2 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age. If

such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately; or

(C) Rape of a child in the first degree.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(C)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of ~~((a lesser included))~~ an offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age twenty-five if the juvenile has turned eighteen years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d). ~~((However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.))~~

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (C) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services and the department of children, youth, and families.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapter ~~(§) 26.09 ((and 26.26)),~~ 26.26A, or 26.26B RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Sec. 10. RCW 13.40.110 and 2018 c 162 s 4 are each amended to read as follows:

(1) Discretionary decline hearing - The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction only if:

(a) The respondent is, at the time of proceedings, at least fifteen years of age or older and is charged with a serious violent offense as defined in RCW 9.94A.030; ~~((or))~~

(b) The respondent is, at the time of proceedings, fourteen years of age or younger and is charged with murder in the first degree (RCW 9A.32.030), and/or murder in the second degree (RCW 9A.32.050); or

(c) The respondent is any age and is charged with custodial assault, RCW 9A.36.100, and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age twenty-one.

(2) Mandatory decline hearing - Unless waived by the court, the parties, and their counsel, a decline hearing shall be held when the information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

(3) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant

reports, facts, opinions, and arguments presented by the parties and their counsel.

(4) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

NEW SECTION. Sec. 11. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, sections 1 through 6 of this act are null and void.

Passed by the House April 18, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor May 9, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 323

[Engrossed Second Substitute House Bill 1593]

UNIVERSITY OF WASHINGTON BEHAVIORAL HEALTH INNOVATION AND INTEGRATION CAMPUS

AN ACT Relating to establishing a behavioral health innovation and integration campus within the University of Washington school of medicine; adding new sections to chapter 28B.20 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 28B.20 RCW to read as follows:

The legislature finds that there is a need for services for individuals with behavioral health needs, and there is a shortage of behavioral health workers in Washington state. The legislature further finds that there is a need for a trained workforce that is experienced in fully integrated care and able to address a full range of needs, including primary care, mental health, substance use disorder, and suicide prevention, in all health care specialties. The legislature further finds that there is a need to support rural and otherwise underserved communities around the state with timely telepsychiatry specialty consultation.

The legislature further finds that the University of Washington school of medicine department of psychiatry and behavioral sciences is a nationally competitive program and has the expertise to establish innovative clinical inpatient and outpatient care for individuals with behavioral health needs while at the same time training the next generation of behavioral health providers, including primary care professionals, in inpatient and outpatient settings. The legislature further finds that the University of Washington school of medicine department of psychiatry and behavioral sciences, along with the University of Washington schools of nursing, social work, pharmacy, public health, the department of psychology, and other relevant disciplines, are especially well-situated to take on the task of developing this transformational service-oriented programming.

Therefore, the legislature intends to partner with the University of Washington to develop plans for the creation of the University of Washington behavioral health innovation and integration campus to increase access to

behavioral health services in the state. Planning for the campus should also include capacity to provide inpatient care for up to one hundred fifty individuals who receive extended inpatient psychiatric care at western state hospital under the state's involuntary treatment act, chapter 71.05 RCW.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.20 RCW to read as follows:

(1) A behavioral health innovation and integration campus is created within the University of Washington school of medicine. The campus must include inpatient treatment capacity and focus on inpatient and outpatient care for individuals with behavioral health needs while training a behavioral health provider workforce. The training must include an interdisciplinary curriculum and programs that support and encourage professionals to work in teams. The training must use current best practices, including best practices in suicide prevention, must encourage innovation of future best practices in order to provide behavioral health care across the entire spectrum of health care providers, and must be culturally appropriate, including training specifically appropriate for providing care to federally recognized tribes and tribal members.

(2) The siting and design for the new campus should take into account local community needs and resources, with attention to diversity and cultural competence, a focus on training and supporting the next generation of health care providers, and close coordination with existing local and regional programs, clinics, and resources.

NEW SECTION. Sec. 3. (1) The University of Washington school of medicine shall consult with collective bargaining representatives of the University of Washington health system workforce and report to the office of financial management and the appropriate committees of the legislature by December 1, 2019, with plans on development and siting of a teaching facility to provide inpatient care for up to one hundred fifty individuals to receive care under chapter 71.05 RCW.

(2) The plan may also include:

(a) Adding psychiatry residency training slots focused on community psychiatry services to bring more psychiatrists to the state of Washington and train them to work with rural and otherwise underserved communities and populations;

(b) Expanding telepsychiatry consultation programs and initiating telepsychiatry consultations to community-based hospitals, clinics, housing programs, nursing homes, and other facilities;

(c) Initiating a fellowship program for family physicians or other primary care providers interested in treating patients with behavioral health needs;

(d) Initiating a residency program for advanced practice psychiatric nurses and advanced registered nurse practitioners interested in community psychiatry;

(e) Creating practicum, internship, and residency opportunities in the community behavioral health system;

(f) Developing integrated workforce development programs for new or existing behavioral health providers, in partnership with training programs for health professionals, such as primary care physicians, nurses, nurse practitioners, physician assistants, medical assistants, social workers, mental health providers, chemical dependency providers, peers, and other health care workers, that

prepare behavioral health providers to work in teams using evidence-based integrated care that addresses the physical, psychological, and social needs of individuals and families;

(g) Expanding the University of Washington forefront suicide prevention's efforts as a center of excellence to serve the state in providing technical assistance for suicide prevention and community-based programs; and

(h) Incorporating transitional services for mental health and substance use disorder needs, such as peer and family bridge and navigator programs, and transitional care programs, from acute care to nursing homes, enhanced services facilities, supportive housing, recovery residences, and other community-based settings.

NEW SECTION. Sec. 4. A new section is added to chapter 28B.20 RCW to read as follows:

For purposes of siting and other land use planning and approval process, work should be done within the existing major institution master plan including the existing community advisory committee addressing land use and building permit approval for the behavioral health teaching facility under sections 2 and 3 of this act.

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, 2019, in the omnibus capital appropriations act or omnibus operating appropriations act, this act is null and void.

Passed by the House April 24, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor May 9, 2019.

Filed in Office of Secretary of State May 13, 2019.

CHAPTER 324

[Second Substitute House Bill 1394]

BEHAVIORAL HEALTH COMMUNITY FACILITIES

AN ACT Relating to community facilities needed to ensure a continuum of care for behavioral health patients; amending RCW 71.24.025, 70.38.111, and 70.38.260; reenacting and amending RCW 74.39A.030; adding new sections to chapter 71.24 RCW; adding a new section to chapter 71A.12 RCW; 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 there is a need for additional bed capacity and services for individuals with behavioral health needs. The legislature further finds that for many individuals, it is best for them to receive treatment in their communities and in smaller facilities that help them stay closer to home. The legislature further finds that the state hospitals are struggling to keep up with rising demand; there are challenges to finding appropriate placements for patients ready to discharge, and there are a shortage of appropriate facilities for individuals with complex behavioral health needs.

Therefore, the legislature intends to provide more options in the continuum of care for behavioral health clients by creating new facility types and by expanding the capacity of current provider types in the community.

Sec. 2. RCW 71.24.025 and 2018 c 201 s 4002 are each amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(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) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health organization" means any county authority or group of county authorities or other entity recognized by the director in contract in a defined region.

(7) "Behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat chemical dependency and mental illness.

(8) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter.

(9) "Child" means a person under the age of eighteen years.

(10) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than

twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(11) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(12) "Community mental health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(13) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health organizations.

(14) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(15) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

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

(17) "Designated crisis responder" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(18) "Director" means the director of the authority.

(19) "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.

(20) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(21) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which

may include the use of a program that is evidence-based for outcomes other than those listed in subsection (22) of this section.

(22) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(23) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(24) "Licensed or certified service provider" means an entity licensed or certified according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, or tribal attestation that meets state minimum standards, or persons licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(25) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(26) "Mental health services" means all services provided by behavioral health organizations and other services provided by the state for persons who are mentally ill.

(27) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health organizations and their staffs, or by treatment facilities. "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, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

(28) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (10), ~~((36))~~ (35), and ~~((37))~~ (36) of this section.

(29) "Recovery" means ~~(the process in which people are able to live, work, learn, and participate fully in their communities.~~

~~(30) "Registration records" include all the records of the department of social and health services, the authority, behavioral health organizations, treatment facilities, and other persons providing services for the department of social and health services, the authority, county departments, or facilities which identify persons who are receiving or who at any time have received services for~~

mental illness)) a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

~~((31))~~ (30) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (22) of this section but does not meet the full criteria for evidence-based.

~~((32))~~ (31) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

~~((33))~~ (32) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

~~((34))~~ (33) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined solely by a behavioral health organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health organization.

~~((35))~~ (34) "Secretary" means the secretary of the department of health.

~~((36))~~ (35) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

~~((37))~~ (36) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health organization to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

~~((38))~~ (37) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified service providers for the provision of mental health and substance use disorder services; and

(ii) Residential services.

~~((39))~~ (38) "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.

~~((40))~~ (39) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the director insofar as these organizations do not have a financial relationship with any behavioral health organization that would present a conflict of interest.

(40) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(41) "Mental health peer respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

NEW SECTION. Sec. 3. A new section is added to chapter 71.24 RCW to read as follows:

The secretary shall license or certify intensive behavioral health treatment facilities that meet state minimum standards. The secretary must establish rules working with the authority and the department of social and health services to create standards for licensure or certification of intensive behavioral health treatment facilities. The rules, at a minimum, must:

(1) Clearly define clinical eligibility criteria in alignment with how "intensive behavioral health treatment facility" is defined in RCW 71.24.025;

(2) Require twenty-four hour supervision of residents;

(3) Establish staffing requirements that provide an appropriate response to the acuity of the residents, including a clinical team and a high staff to patient ratio;

(4) Establish requirements for the ability to provide services and an appropriate level of care to individuals with intellectual or developmental disabilities. The requirements must include staffing and training;

(5) Require access to regular psychosocial rehabilitation services including, but not limited to, skills training in daily living activities, social interaction, behavior management, impulse control, and self-management of medications;

(6) Establish requirements for the ability to use limited egress;

(7) Limit services to persons at least eighteen years of age; and

(8) Establish resident rights that are substantially similar to the rights of residents in long-term care facilities.

NEW SECTION. Sec. 4. A new section is added to chapter 71.24 RCW to read as follows:

By December 1, 2019, the secretary of health, in consultation with the department of social and health services, the department of commerce, the long-term care ombuds, and relevant stakeholders must provide recommendations to the governor and the appropriate committees of the legislature on providing resident rights and access to ombuds services to the residents of the intensive behavioral health treatment facilities.

NEW SECTION. Sec. 5. A new section is added to chapter 71.24 RCW to read as follows:

The secretary shall license or certify mental health peer respite centers that meet state minimum standards. In consultation with the authority and the department of social and health services, the secretary must:

(1) Establish requirements for licensed and certified community behavioral health agencies to provide mental health peer respite center services and establish physical plant and service requirements to provide voluntary, short-term, noncrisis services that focus on recovery and wellness;

(2) Require licensed and certified agencies to partner with the local crisis system including, but not limited to, evaluation and treatment facilities and designated crisis responders;

(3) Establish staffing requirements, including rules to ensure that facilities are peer-run;

(4) Limit services to a maximum of seven days in a month;

(5) Limit services to individuals who are experiencing psychiatric distress, but do not meet legal criteria for involuntary hospitalization under chapter 71.05 RCW; and

(6) Limit services to persons at least eighteen years of age.

NEW SECTION. Sec. 6. A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority and the entities identified in RCW 71.24.310 and 71.24.380 shall: (a) Work with willing community hospitals licensed under chapters 70.41 and 71.12 RCW and evaluation and treatment facilities licensed or certified under chapter 71.05 RCW to assess their capacity to become licensed or certified to provide long-term inpatient care and to meet the requirements of this chapter; and (b) enter into contracts and payment arrangements with such hospitals and evaluation and treatment facilities choosing to provide long-term mental health placements, to the extent that willing licensed or certified facilities are available.

(2) Nothing in this section requires any community hospital or evaluation and treatment facility to be licensed or certified to provide long-term mental health placements.

NEW SECTION. Sec. 7. By November 15, 2019, the health care authority shall confer with the department of health, hospitals licensed under chapters 70.41 and 71.12 RCW, and evaluation and treatment facilities licensed or certified under chapter 71.05 RCW to review laws and regulations and identify changes that may be necessary to address care delivery and cost-effective treatment for adults on ninety-day or one hundred eighty-day commitment orders. The health care authority must report its findings to the governor's office and the appropriate committees of the legislature by December 15, 2019.

Sec. 8. RCW 70.38.111 and 2017 c 199 s 1 are each amended to read as follows:

(1) The department shall not require a certificate of need for the offering of an inpatient tertiary health service by:

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be

geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination;

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination; or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization; if, with respect to such offering or obligation by a nursing home, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering a tertiary health service unless:

(a) It has submitted at least thirty days prior to the offering of services reviewable under RCW 70.38.105(4)(d) an application for such exemption; and

(b) The application contains such information respecting the organization, combination, or facility and the proposed offering or obligation by a nursing home as the department may require to determine if the organization or combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements; and

(c) The department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide tertiary health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in such facility or in a lease of such facility may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless:

(a) The department issues a certificate of need approving the sale, lease, acquisition, or use; or

(b) The department determines, upon application, that (i) the entity to which the facility is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1)(a)(i), and (ii) with respect to such facility, meets the requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements to the offering of inpatient tertiary health services to the extent that such offering is not exempt under the provisions of this section or RCW 70.38.105(7).

(5)(a) The department shall not require a certificate of need for the construction, development, or other establishment of a nursing home, or the addition of beds to an existing nursing home, that is owned and operated by a continuing care retirement community that:

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;

(iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;

(iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;

(vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

(b) A continuing care retirement community shall not be exempt under this subsection from obtaining a certificate of need unless:

(i) It has submitted an application for exemption at least thirty days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and

(ii) The application documents to the department that the continuing care retirement community qualifies for exemption.

(c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

(7) A rural health care facility licensed under RCW 70.175.100 formerly licensed as a hospital under chapter 70.41 RCW may, within three years of the effective date of the rural health care facility license, apply to the department for a hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW and there is no redistribution in the number of beds used for acute care or long-term care, the rural health care facility has been in continuous operation, and the rural health care facility has not been purchased or leased.

(8) A rural hospital determined to no longer meet critical access hospital status for state law purposes as a result of participation in the Washington rural health access preservation pilot identified by the state office of rural health and formerly licensed as a hospital under chapter 70.41 RCW may apply to the department to renew its hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW. If all or part of a formerly licensed rural hospital is sold, purchased, or leased during the period the rural hospital does not meet critical access hospital status as a result of participation in the Washington rural health access preservation pilot and the new owner or lessor applies to renew the rural hospital's license, then the sale, purchase, or lease of part or all of the rural hospital is subject to the provisions of this chapter.

(9)(a) A nursing home that voluntarily reduces the number of its licensed beds to provide assisted living, licensed assisted living facility care, adult day care, adult day health, respite care, hospice, outpatient therapy services, congregate meals, home health, or senior wellness clinic, or to reduce to one or two the number of beds per room or to otherwise enhance the quality of life for residents in the nursing home, may convert the original facility or portion of the facility back, and thereby increase the number of nursing home beds to no more than the previously licensed number of nursing home beds without obtaining a certificate of need under this chapter, provided the facility has been in

continuous operation and has not been purchased or leased. Any conversion to the original licensed bed capacity, or to any portion thereof, shall comply with the same life and safety code requirements as existed at the time the nursing home voluntarily reduced its licensed beds; unless waivers from such requirements were issued, in which case the converted beds shall reflect the conditions or standards that then existed pursuant to the approved waivers.

(b) To convert beds back to nursing home beds under this subsection, the nursing home must:

(i) Give notice of its intent to preserve conversion options to the department of health no later than thirty days after the effective date of the license reduction; and

(ii) Give notice to the department of health and to the department of social and health services of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given, at a minimum, one year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given a minimum of ninety days prior to the effective date of license modification reflecting the restored beds. Prior to any license modification to convert beds back to nursing home beds under this section, the licensee must demonstrate that the nursing home meets the certificate of need exemption requirements of this section.

The term "construction," as used in (b)(ii) of this subsection, is limited to those projects that are expected to equal or exceed the expenditure minimum amount, as determined under this chapter.

(c) Conversion of beds back under this subsection must be completed no later than four years after the effective date of the license reduction. However, for good cause shown, the four-year period for conversion may be extended by the department of health for one additional four-year period.

(d) Nursing home beds that have been voluntarily reduced under this section shall be counted as available nursing home beds for the purpose of evaluating need under RCW 70.38.115(2) (a) and (k) so long as the facility retains the ability to convert them back to nursing home use under the terms of this section.

(e) When a building owner has secured an interest in the nursing home beds, which are intended to be voluntarily reduced by the licensee under (a) of this subsection, the applicant shall provide the department with a written statement indicating the building owner's approval of the bed reduction.

(10)(a) The department shall not require a certificate of need for a hospice agency if:

(i) The hospice agency is designed to serve the unique religious or cultural needs of a religious group or an ethnic minority and commits to furnishing hospice services in a manner specifically aimed at meeting the unique religious or cultural needs of the religious group or ethnic minority;

(ii) The hospice agency is operated by an organization that:

(A) Operates a facility, or group of facilities, that offers a comprehensive continuum of long-term care services, including, at a minimum, a licensed, medicare-certified nursing home, assisted living, independent living, day health, and various community-based support services, designed to meet the unique social, cultural, and religious needs of a specific cultural and ethnic minority group;

(B) Has operated the facility or group of facilities for at least ten continuous years prior to the establishment of the hospice agency;

(iii) The hospice agency commits to coordinating with existing hospice programs in its community when appropriate;

(iv) The hospice agency has a census of no more than forty patients;

(v) The hospice agency commits to obtaining and maintaining medicare certification;

(vi) The hospice agency only serves patients located in the same county as the majority of the long-term care services offered by the organization that operates the agency; and

(vii) The hospice agency is not sold or transferred to another agency.

(b) The department shall include the patient census for an agency exempted under this subsection (10) in its calculations for future certificate of need applications.

(11) To alleviate the need to board psychiatric patients in emergency departments and increase capacity of hospitals to serve individuals on ninety-day or one hundred eighty-day commitment orders, for the period of time from May 5, 2017, through June 30, (~~2019~~) 2021:

(a) The department shall suspend the certificate of need requirement for a hospital licensed under chapter 70.41 RCW that changes the use of licensed beds to increase the number of beds to provide psychiatric services, including involuntary treatment services. A certificate of need exemption under this subsection (11)(a) shall be valid for two years.

(b) The department may not require a certificate of need for:

(i) The addition of beds as described in RCW 70.38.260 (2) and (3); or

(ii) The construction, development, or establishment of a psychiatric hospital licensed as an establishment under chapter 71.12 RCW that will have no more than sixteen beds and provide treatment to adults on ninety or one hundred eighty-day involuntary commitment orders, as described in RCW 70.38.260(4).

Sec. 9. RCW 70.38.260 and 2017 c 199 s 2 are each amended to read as follows:

(1) For a grant awarded during fiscal years (~~2016~~) 2018 and (~~2017~~) 2019 by the department of commerce under this section, hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed as establishments under chapter 71.12 RCW are not subject to certificate of need requirements for the addition of the number of new psychiatric beds indicated in the grant. The department of commerce may not make a prior approval of a certificate of need application a condition for a grant application under this section. The period during which an approved hospital or psychiatric hospital project qualifies for a certificate of need exemption under this section is two years from the date of the grant award.

(2)(a) Until June 30, (~~2019~~) 2021, a hospital licensed under chapter 70.41 RCW is exempt from certificate of need requirements for the addition of new psychiatric beds.

(b) A hospital that adds new psychiatric beds under this subsection (2) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the hospital with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain psychiatric beds unless a certificate of need is granted to change their use or the hospital voluntarily reduces its licensed capacity.

(3)(a) Until June 30, (~~2019~~) 2021, a psychiatric hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements for the one-time addition of up to thirty new psychiatric beds, and for the one-time addition of up to sixty psychiatric beds devoted solely to ninety-day and one hundred eighty-day civil commitment patients if the hospital was awarded any grant by the department of commerce to increase behavioral health capacity in fiscal year 2019 and makes a commitment to maintain a payer mix of at least fifty percent medicare and medicaid based on a calculation using patient days for a period of five consecutive years after the beds are made available for use by patients, if it demonstrates to the satisfaction of the department:

(i) That its most recent two years of publicly available fiscal year-end report data as required under RCW 70.170.100 and 43.70.050 reported to the department by the psychiatric hospital, show a payer mix of a minimum of fifty percent medicare and medicaid based on a calculation using patient days; and

(ii) A commitment to maintaining the payer mix in (a) of this subsection for a period of five consecutive years after the beds are made available for use by patients.

(b) A psychiatric hospital that adds new psychiatric beds under this subsection (3) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the psychiatric hospital with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain psychiatric beds unless a certificate of need is granted to change their use or the psychiatric hospital voluntarily reduces its licensed capacity.

(4)(a) Until June 30, (~~2019~~) 2021, an entity seeking to construct, develop, or establish a psychiatric hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements if the proposed psychiatric hospital will have no more than sixteen beds and dedicate a portion of the beds to providing treatment to adults on ninety or one hundred eighty-day involuntary commitment orders. The psychiatric hospital may also provide treatment to adults on a seventy-two hour detention or fourteen-day involuntary commitment order.

(b) An entity that seeks to construct, develop, or establish a psychiatric hospital under this subsection (4) must:

(i) Notify the department of the addition of construction, development, or establishment. The department shall provide the entity with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Entities granted an exemption under RCW 70.38.111(11)(b)(ii) may not exceed sixteen beds unless a certificate of need is granted to increase the psychiatric hospital's capacity.

(5) This section expires June 30, (~~2022~~) 2025.

NEW SECTION. Sec. 10. By July 1, 2020, the health care authority and the department of social and health services, in consultation with the department of health, the department of children, youth, and families, representatives from providers serving children's inpatient psychiatric needs in each of the three largest cities in Washington, representatives from behavioral health and developmental disability service providers, and representatives from developmental disability advocacy organizations including individuals and families of individuals who need or receive behavioral health and developmental disability services, must provide recommendations to the governor's office and the appropriate committees of the legislature relating to short-term and long-term residential intensive behavioral health and developmental disability services for youth and adults with developmental disabilities and behavioral health needs who are experiencing, or are in danger of experiencing, barriers discharging from inpatient behavioral health treatment received in community hospitals or state hospitals. The recommendations must address the needs of youth and adults with developmental or intellectual disabilities separately and: (1) Consider services necessary to support the youth or adult, the youth or adult's family, and the residential service provider in preparation for and after discharge, including in-home behavioral health and developmental disability supports that may be needed after discharge to maintain stability; (2) establish staffing and funding requirements that provide an appropriate level of treatment for residents in facilities, including both licensed mental health professionals and developmental disability professionals; and (3) for youth clients, consider how to successfully transition a youth to adult services without service disruption.

Sec. 11. RCW 74.39A.030 and 2018 c 278 s 6 and 2018 c 225 s 2 are each reenacted and amended to read as follows:

(1) To the extent of available funding, the department shall expand cost-effective options for home and community services for consumers for whom the state participates in the cost of their care.

(2) In expanding home and community services, the department shall take full advantage of federal funding available under Title XVIII and Title XIX of the federal social security act, including home health, adult day care, waiver options, and state plan services and expand the availability of in-home services and residential services, including services in adult family homes, assisted living facilities, and enhanced services facilities.

(3)(a) The department shall by rule establish payment rates for home and community services that support the provision of cost-effective care. Beginning July 1, 2019, the department shall adopt a data-driven medicaid payment methodology as specified in RCW 74.39A.032 for contracted assisted living, adult residential care, and enhanced adult residential care. In the event of any conflict between any such rule and a collective bargaining agreement entered into under RCW 74.39A.270 and 74.39A.300, the collective bargaining agreement prevails.

(b) The department may authorize an enhanced adult residential care rate for nursing homes that temporarily or permanently convert their bed use under chapter 70.38 RCW for the purposes of providing assisted living, enhanced adult residential care (~~(under chapter 70.38 RCW)~~), or adult residential care, when the department determines that payment of an enhanced rate is cost-effective and necessary to foster expansion of these contracted (~~((enhanced adult residential care))~~) services. As an incentive for nursing homes to permanently convert a portion of ~~((its))~~ their nursing home bed capacity for the purposes of providing assisted living, enhanced adult residential care, or adult residential care, including but not limited to serving individuals with behavioral health treatment needs, the department may authorize a supplemental add-on to the ~~((enhanced adult))~~ residential care rate.

~~((c) The department may authorize a supplemental assisted living services rate for up to four years for facilities that convert from nursing home use and do not retain rights to the converted nursing home beds under chapter 70.38 RCW, if the department determines that payment of a supplemental rate is cost-effective and necessary to foster expansion of contracted assisted living services.))~~

NEW SECTION. Sec. 12. (1) The health care authority shall establish a pilot program to provide mental health drop-in center services. The mental health drop-in center services shall provide a peer-focused recovery model during daytime hours through a community-based, therapeutic, less restrictive alternative to hospitalization for acute psychiatric needs. The program shall assist clients in need of voluntary, short-term, noncrisis services that focus on recovery and wellness. Clients may refer themselves, be brought to the center by law enforcement, be brought to the center by family members, or be referred by an emergency department.

(2) The pilot program shall be conducted in the largest city in a regional service area that has at least nine counties. Funds to support the pilot program shall be distributed through the behavioral health administrative service organization that serves the pilot program.

(3) The pilot program shall begin on January 1, 2020, and conclude July 1, 2022.

(4) By December 1, 2020, the health care authority shall submit a preliminary report to the governor and the appropriate committees of the legislature. The preliminary report shall include a survey of peer mental health programs that are operating in the state, including the location, type of services offered, and number of clients served. By December 1, 2021, the health care authority shall report to the governor and the appropriate committees of the legislature on the results of the pilot program. The report shall include information about the number of clients served, the needs of the clients, the method of referral for the clients, and recommendations on how to expand the program statewide, including any recommendations to account for different needs in urban and rural areas.

NEW SECTION. Sec. 13. A new section is added to chapter 71A.12 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the developmental disabilities administration of the department of

social and health services shall track and monitor the following items and make the deidentified information available to the office of the developmental disabilities ombuds created in RCW 43.382.005, the legislature, the Washington state hospital association, and the public upon request:

(a) Information about clients receiving services from a provider who are taken or admitted to a hospital. This includes:

(i) The number of clients who are taken or admitted to a hospital for services without a medical need;

(ii) The number of clients who are taken or admitted to a hospital with a medical need, but are unable to discharge once the medical need is met;

(iii) Each client's length of hospital stay for nonmedical purposes;

(iv) The reason each client was unable to be discharged from a hospital once the client's medical need was met;

(v) The location, including the type of provider, where each client was before being taken or admitted to a hospital; and

(vi) The location where each client is discharged.

(b) Information about clients who are taken or admitted to a hospital once the client's provider terminates services. This includes:

(i) The number of clients who are taken or admitted to a hospital for services without a medical need;

(ii) The number of clients who are taken or admitted to a hospital with a medical need, but are unable to discharge once the medical need is met;

(iii) Each client's length of hospital stay for nonmedical purposes;

(iv) The reason each client was unable to be discharged from a hospital once the client's medical need was met;

(v) For each client, the reason the provider terminated services;

(vi) The location, including the type of provider, where each client was before being taken or admitted to a hospital; and

(vii) The location where each client is discharged.

(2) A provider must notify the department when a client is taken or admitted to a hospital for services without a medical need and when a client is taken or admitted to a hospital with a medical need but is unable to discharge back to the provider, so that the department may track and collect data as required under subsection (1) of this section.

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

(a) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

(b) "Provider" means a certified residential services and support program that contracts with the developmental disabilities administration of the department of social and health services to provide services to administration clients. "Provider" also includes the state-operated living alternatives program operated by the administration.

Passed by the House April 23, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor May 9, 2019.

Filed in Office of Secretary of State May 13, 2019.

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 2019 session (66th Legislature), chapters 203 through 324, 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 29th day of May, 2019.

A handwritten signature in black ink, appearing to read "Kathleen Buchli".

Kathleen Buchli
Code Reviser